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NYC Administrative Code 20-269

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-269 Automobile wreckers; fires.

The occurrence, as reported by the fire commissioner pursuant to subdivision c of section 27-4249 of the code, of more than two fires during any twelve-month period at a location operated for the salvage, dumping or wrecking of automobiles or parts thereof by a person licensed pursuant to this subchapter, shall be considered by the commissioner as prima facie evidence of the existence of a continuous danger to public health and safety and shall be grounds for the suspension or revocation of said license.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-130.1 added LL 14/1966 § 3

(laid out incorrectly as § B32-130)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-270

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-270 Sign for new and second-hand articles.

Every person licensed as a dealer in second-hand articles, who also sells new articles within the licensed premises, shall have a sign of not less than two hundred sixteen square inches with letters thereon not less than two inches in height prominently displayed within the department or area where said articles are sold, informing the public that new articles and second-hand articles are sold within said department or area.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-130.1 added LL 179/1964 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-271

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-271 Labelling of second-hand articles.

Every person licensed as a dealer in second-hand articles, who also sells new articles within the licensed premises, shall label all second-hand articles in such manner that the public will be informed thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-130.2 added LL 179/1964 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-272

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-272 Lost or stolen property.

a. If any goods or articles shall be advertised in any newspaper printed in the city as having been lost or stolen, and if any goods or articles answering such advertised description or any part thereof, shall be in or come into the possession of any dealer in second-hand articles, upon receiving written or oral notice to do so, such dealer shall give information thereof in writing to the police commissioner.

b. Every dealer in second-hand articles who shall have or receive any goods, or articles lost or stolen, or alleged or supposed to have been lost or stolen, shall exhibit the same, on demand, to the commissioner or departmental inspector, or to any judge of the criminal court, to any police officer, or to any person, duly authorized in writing by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-131.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-273

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-273 Record of purchase and sales.

a. Every dealer in second-hand articles shall keep a book in which shall be legibly written in English, at the time of every purchase and at the time of every sale, a description of every article so purchased or sold, the number or numbers and any monograms, inscription or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monogram, inscription or marks of identification thereon, the name, residence and general description of the person from whom such purchase was made or to whom sold and the day and hour of the purchase or sale.

b. In the case of a purchase or sale of a pawnbroker ticket or other evidence of a pledged article or a redemption or sale of a pledged article, there shall be written in such book at the time of such purchase, sale or redemption:

1. The name and address of the person who issued such ticket or other evidence;

2. The pledge number of such pawn ticket or other evidence;

3. The name and address of the pledgor as it appears upon such pawn ticket or other evidence;

4. The amount loaned or advanced as it appears on such pawn ticket or other evidence;

5. The day and hour of such purchase, sale or redemption, as the case may be;

6. The name, residence and general description of the person from whom or to whom the redeemed article is purchased or sold, as the case may be;

7. The sum paid or received for such pawn ticket or other evidence, or the sum paid or received for the redeemed article or pledge;

8. Such description of a pledged article as appears on such pawn ticket or other evidence and an accurate description of every redeemed pledged article.

c. In the case of a sale or other disposal of a motor vehicle, motor cycle or motor thereof, the licensee shall, in addition to any other entry required, enter in a permanent record the manner in which said motor vehicle, motor cycle or motor was removed from the premises, giving the name and address of the person who removes it and the motor vehicle registration number of any vehicle used to tow, remove or transport such motor vehicle, motor cycle or motor.

d. Such book, at all reasonable times, shall be open to the inspection of any police officer, to the commissioner or departmental inspector, or any judge of the criminal court, or any person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-132.0 added chap 929/1937 § 1

Sub d relettered LL 60/1957 § 1

(formerly sub c)

Sub c added LL 60/1957 § 2

Amended LL 60/1981 § 3

CASE NOTES FROM FORMER SECTION

¶ 1. Where police officers came to junkyard to inspect book recording purchases and sales and when it was not produced began to roam area not more than 12 feet from office shed and noticed that vehicle identification numbers on automobile parts had been obliterated after which defendants were arrested and parts seized the search was upheld since premises were open for business and accessible to public and objects were in open view.-People v. Ruggieri, 85 Misc. 2d 141, 379 N.Y.S. 2d 333 [1976].

¶ 2. New York City Charter § 436 which gives the police commissioner power to search and supervise junkyards is limited by subdivision d of this section and hence the commissioner does not have unbridled discretion.-People v. Pace, 111 Misc. 2d 488 [1981].

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NYC Administrative Code 20-274

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-274 Dealers in old clothes; regulation. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 39/2006 § 6, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-133.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-275

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 11 DEALERS IN SECOND-HAND ARTICLES

§ 20-275 Violation.

Any person who shall violate any of the provisions of this subchapter or any rule or regulation issued thereunder shall be guilty of a class A misdemeanor and upon the first conviction be subject to a fine of at least five hundred dollars and upon any subsequent conviction be subject to a fine of one thousand dollars and/or imprisonment of at least fifteen days.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-134.0 added LL 60/1981 § 5

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-276

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 12 PAWNBROKERS

§ 20-276 Pawnbroker's clerks.

It shall be unlawful for any pawnbroker to employ a person under the age of sixteen years to accept or receive any pledge.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-135.0 added chap 929/1937 § 1

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NYC Administrative Code 20-277

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 12 PAWNBROKERS

§ 20-277 Reports.

The police commissioner, at such times as he or she may prescribe in a written notice served upon any pawnbroker by a member of the police department, may require such pawnbroker to report to such commissioner, upon blank forms to be furnished by the police department, a description of all goods, articles or things, or any part thereof, pawned or pledged in the course of business of such pawnbroker during the days specified in such notice, stating the numbers of the pawn tickets issued therefor, the amounts loaned thereon, and such identifying marks as may be on the goods pawned. If such notice from the police commissioner so prescribes, such pawnbroker, until he or she is notified to discontinue so doing, shall keep and furnish on such forms, a general description as to sex, color and apparent age of every person depositing such pledges.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-136.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where defendant-dealer in pawntickets had purchased from F certain pawntickets and later redeemed the pledges from defendant-pawnbrokers by paying the amount set forth on such pawntickets, and subsequently plaintiffs were held entitled to recover from the dealer the pawned items inasmuch as they had been stolen from plaintiffs, defendant-dealer was not entitled to recover its loss from the other pawnbrokers, as in redeeming the pledges to defendant they did not warrant either the genuineness of the pledge nor title thereto in themselves. Administrative Code § B32-135.0 imposed no duty upon the pawnbrokers in the first instance to advise the Police Commissioner of articles pledged with them, although they might be required by the Commissioner to so report.-Kind v. B. Gutter & Sons, Inc., 191 Misc. 331, 80 N.Y.S. 2d 669 [1947].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-278

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-278 License required.

It shall be unlawful for any person to engage in the business of auctioneer without a license therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-138.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Although reinstatement of the auctioneer's license might not be directed inasmuch as it had expired, its expiration did not make the application academic, since the suspension of the license, if allowed to stand, might prejudice petitioner on any application for a new license.-In re Schepps (Moss), 114 (70) N.Y.L.J. (9-22-45) 592, Col. 6 T.

¶ 2. Auctioneer cannot delegate any duties which he is prescribed by law to perform. Therefore appellant auctioneer must account to court for proceeds of property sold at public auction and failure to do so is grounds for

revocation of license.-Matter of Creveling & Son Corp., 283 N.Y. 760, 28 N.E. 2d 975 [1940], aff'g, 259 App. Div. 351, 19 N.Y.S. 378 [1940].

¶ 3. The suspension of an auctioneer's license for permitting his signs to advertise an auction where the prospective seller had not obtained a license for a going out of business sale was improper where the auctioneer was not aware that the seller had been denied a license when he erected the signs and promptly removed them upon receiving a summons from the Department of Licenses.-Wohlmuth v. O'Connell, 147 (117) N.Y.L.J. (6-18-62) 13, Col. 5 M.

¶ 4. Denial of application for an auctioneer's license was upheld where petitioner continued to sell by auction in Westchester county automobiles located in New York City and to use a business card and telephone listing implying that he was licensed in New York City after having been directed by Department of Licenses to discontinue this practice.-Ezersky v. Tyler, 157 (70) N.Y.L.J. (4-12-67) 18, Col. 3 T.

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NYC Administrative Code 20-279

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-279 Fee; bond; fingerprinting.

a. The annual fee for such license shall be two hundred dollars.

b. Each applicant for such license shall file with the commissioner, a bond with two good sureties, in the penal sum of two thousand dollars, which bond shall meet with the approval of the commissioner.

c. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

HISTORICAL NOTE

Section amended L.L 66/1989 § 5

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-139.0 added chap 929/1937 § 1

Sub a amended LL 44/1970 § 6

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NYC Administrative Code 20-279.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-279.1 Refusal to issue or renew, or suspension or revocation based on criminal conviction.

In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

HISTORICAL NOTE

Section added L.L. 66/1989 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-280

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-280 Requirements for auctioneers.

Each auctioneer shall cause his or her name and license number to be conspicuously displayed at any place where he or she shall conduct an auction sale during such sale.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-140.0 added chap 929/1937 § 1

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NYC Administrative Code 20-281

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-281 Persons acting as auctioneers.

It shall be unlawful for any person not licensed as an auctioneer to represent or circulate or place before the public any announcement, or to insert or cause to be inserted in any city, business or telephone directory, any notice that he or she is conducting the business of auctioneering.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-141.0 added chap 929/1937 § 1

Amended LL 172/1939 § 20

Sub b repealed LL 20/1973 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-282

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-282 Advertising.

Every auctioneer in his or her own name, shall give notice in one or more of the public newspapers printed in the city, of every auction sale to be conducted by him or her. In the event that such auctioneer shall be connected with any firm or other person his or her name shall in all cases precede the name of such firm or other person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-142.0 added chap 929/1937 § 1

Sub b repealed LL 20/1973 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Action of Commissioner of Licenses in revoking petitioner's license as auctioneer would not be disturbed where petitioner had violated Administrative Code § B32-142.0 by placing an auction advertisement in newspaper without including name of auctioneer.-Schepps v. Moss, 115 (62) N.Y.L.J. (3-16-46) 1047, Col. 4 T.

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NYC Administrative Code 20-283

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-283 Night auctions. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 39/2006 § 7, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-143.0 added chap 929/1937 § 1

Sub d repealed LL 20/1973 § 2

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NYC Administrative Code 20-284

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-284 Sale of jewelry.

a. Each auctioneer shall cause to be delivered to the purchaser of diamonds, precious stones or other jewelry, a signed document containing a description of the article sold and the representations made in regard thereto at the time of the sale.

b. Each article of jewelry sold at public auction shall have affixed thereto a tag, on which shall be printed or written a correct description of such article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-144.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-285

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-285 Restrictions.

a. It shall be unlawful for any auctioneer, his or her agent, employee or servant to sell at public auction or expose for such sale:

1. Any dry-goods, clothing, hardware, household furniture, woodenware or tinware by retail or in small parcels or pieces, in any street or public place;

2. Any goods, wares, merchandise or other things to any person who, at the time of bidding for or while examining such articles, shall be on any street;

3. Any goods, wares, merchandise or other things in any street or public place, or place them thereon, unless he or she first shall obtain the consent or permission, in writing, of the occupant of the lot or building before which such articles or any part thereof shall be placed or exposed for sale.

b. It shall be unlawful to employ any means of attracting the attention of purchasers, other than a sign or flag, at or near any place of sale, auction room, residence of any auctioneer, or at or near any auction whatsoever.

c. Every article sold or exposed for sale at public auction, in any street or public place, shall be removed therefrom by sunset on the day of such sale or display.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-145.0 added chap 929/1937 § 1

Sub d added LL 172/1939 § 21

Sub d repealed LL 20/1973 § 2

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NYC Administrative Code 20-286

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-286 Sale of real property; fees.

a. It shall be unlawful for any auctioneer to demand or receive for his or her services, in selling, at public auction, any real estate directed to be sold by any judgment or decree of any court of this state, a greater fee than fifty dollars for each parcel separately sold, except that in all sales of real estate conducted by any auctioneer pursuant to a judgment or decree of any court of this state in any action brought to foreclose a mortgage or other lien on real estate, the fees of such auctioneers shall be as follows:

1. in all cases where the judgment of foreclosure is for an amount not exceeding five thousand dollars, the fee shall be fifteen dollars;

2. in all cases where the judgment of foreclosure is for an amount in excess of five thousand dollars, but not exceeding twenty-five thousand dollars, the fee shall be twenty-five dollars;

3. in all cases where the judgment of foreclosure is for an amount in excess of twenty-five thousand dollars, the fee shall be fifty dollars.

b. Where such sale is made at any public salesroom, such auctioneer may demand and receive such further amount not exceeding ten dollars for each parcel separately sold as he or she may have actually paid for the privilege or right of making the sale in such salesroom.

c. Where one or more lots are so sold at public auction with the option to the purchaser of taking one or more additional lots at the same rates or price, nothing herein contained shall be construed to prevent the auctioneer making such sale from demanding and receiving for his or her services the compensation or fee above allowed, for each additional lot taken by such purchaser under such option.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-146.0 added chap 929/1937 § 1

Sub b amended chap 83/1947 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. On petition for approval of report of assignee for benefit of creditors of a bankrupt, the payment of a 10 percent sales commission to an auctioneer was deemed excessive, although there appeared to be no statutory limit in New York County, as Administrative Code § B32-146.0 applies only to real property.-In re Moskowitz, 25 F. Supp. 341 [1938].

¶ 2. Where, on instructions of plaintiff's attorney, an attempt was made to sell the property in three different lots, but only one sale was consummated by selling the entire property in one parcel, the auctioneer was entitled to $50 for the parcels sold and $10 for use of the salesroom.-R.R.C. v. Bristol & Martin, Inc., 121 (53) N.Y.L.J. (3-17-49) 977, Col. 5 M.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-287

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-287 Split fees.

It shall be unlawful for any auctioneer, either directly or indirectly, to allow or pay to the receiver, referee, sheriff, or other officer under whose direction a sale is made, pursuant to section 20-286 of this subchapter or to any of the attorneys in the action or proceeding from which such sale arises, any portion of his or her fee or compensation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-147.0 added chap 929/1937 § 1

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NYC Administrative Code 20-288

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-288 False or fraudulent representations.

Any auctioneer who shall have knowledge of any false or fraudulent representations or statements or who makes or causes any such statements to be made in respect to the character of any sale, or the party authorizing the same, or the quality, condition, ownership, situation, or value of any property, real or personal, exposed, put up, or offered by him or her for sale at public auction, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-149.0 added chap 929/1937 § 1

Sub b repealed LL 20/1973 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Evidence **held** to sustain conviction of defendant for violating Administrative Code § B32-149.0 in the

making of false representations regarding the quality and value of goods offered for sale at auction.-People v. Sylvia, 263 App. Div. 1006, 33 N.Y.S. 2d 609 [1942].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-289

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-289 Complaints.

a. The commissioner may take testimony, under oath, relating to and upon the complaint of any person who claims he or she has been defrauded by any auctioneer, his or her clerk, agent or assignee, or relating to and upon the complaint of any person who has consigned real or personal property for sale and to whom such auctioneer shall not have accounted fully. The license of each such auctioneer may be revoked and his or her bond declared forfeited if, in the opinion of the commissioner, such charge is sustained. Any such person whose license has been revoked for cause shall not be granted another such license.

b. The commissioner may take testimony, under oath, relating to and upon the complaint of any person who claims that any auctioneer, his or her clerk, agent or assignee, has been guilty of misconduct relating to the business transacted under such auctioneer's license, and if such charge, in his or her opinion, shall be sustained, the commissioner may suspend such license for a period not to exceed six months.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-150.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Under Administrative Code § B32-150.0 empowering Commissioner of Licenses upon complaint of any person "who claims he has been defrauded by any auctioneer" to revoke license of such auctioneer, Commissioner **held** warranted in revoking license where auctioneer had issued worthless checks to complainant in payment of property purchased from complainant, since issuance of such checks justified a finding that complainant had been defrauded, and it was immaterial that the fraud had not related to business transacted under the auctioneer's license.-Levin v. Moss, 169 Misc. 42, 6 N.Y.S. 2d 473 [1938].

¶ 2. That defendant auctioneer engaged by assignee for benefit of creditors to conduct an auction sale, had allegedly, to knowledge of the assignee, entered into an arrangement with an office associate whereby the defendant was merely to act as the auctioneer on the day of the sale for $50, although the commissions would amount to about $600, **held** not to relieve defendant of his obligation to account for and pay over the moneys realized on the auction sale, since duty of auctioneer to receive proceeds of property sold at auction and his obligation to account therefor are non-assignable (Admin. Code §§ B32-138.0, B32-140.0, B32-141.0, B32-142.0, B32-151.0).-In re John C. Creveling & Son Corp., 259 App. Div. 351, 19 N.Y.S. 2d 378 [1940], aff'd. without opinion, 283 N.Y. 760, 28 N.E. 2d 975 [1940].

¶ 3. An auctioneer is subject to the summary jurisdiction of the court for which he acts in respect of his conduct in relation to an estate which has been made the subject of a general assignment and a public sale, since such an estate is in custodia legis. Hence, auctioneer who failed to account for proceeds of property which he sold at an auction and failed to pay over a balance of the proceeds, was properly directed to turn over such sums to the assignee and on failure to do so was properly adjudged in contempt.-Id. ¶ 4. Petitioners were informed by the Department of Licenses that the establishments with which they were connected were conducting fraudulent auctions. They were directed to cease operating or continuing their connections with such establishments, under penalty of forfeiting their license. They refused. The Commissioner's action in revoking their auctioneer licenses, under the circumstances, was neither arbitrary, capricious, nor contrary to law.-Matter of Friedman, 18 Misc. 2d 975, 190 N.Y.S. 2d 439 [1959].

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NYC Administrative Code 20-290

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 13 AUCTIONEERS

§ 20-290 Marshals exempt.

Nothing in this subchapter shall apply to a duly appointed marshal, who, by virtue of his or her office sells real or personal property, levied upon by him or her under legal process.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-152.0 added chap 929/1937 § 1

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NYC Administrative Code 20-291

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-291 Definition.

Whenever used in this subchapter the word "laundry" shall mean and include:

1. Any place, which is used for the purpose of washing, drying, starching or ironing, for the general public, wearing apparel, household linens, or other washable fabrics, or a place used or maintained for the storage, collection or delivery of such articles for such service, or

2. Any place maintained by a person dealing in a laundry service either as an independent contractor or jobber, or any private laundry maintained or operated in connection with any hotel, restaurant or public institution, whether for the tenants, customers or inmates of the same or otherwise, except a hospital or charitable institution where no charge is made for laundry services.

3. Any place, whether self-service or otherwise maintained for the general public for the purpose of washing clothing apparel, or other fabrics, whether by automatic or coin operated laundry machinery.

HISTORICAL NOTE

Subd. 3 renumbered (former subd. 4) L.L. 39/2006 § 8, eff. Dec. 16,

2006. [See § 17-315 Note 1]

Subd. 3 repealed L.L. 39/2006 § 8, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-167.0 added chap 929/1937 § 1

Sub 3 added LL 42/1943 § 1

Amended LL 14/1961 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. After a license to operate a laundromat had been revoked because the licensee corporation had represented that none of its officers had been arrested whereas the secretary had been convicted five times for bookmaking, a new application filed by the wife of the secretary after his resignation from the corporation should not have been denied but a hearing should have been conducted to determine the ability of the wife to run the business, the amount of time she would spend in the business and the amount of help she would enlist in the operation thereof.-Clamae v. O'Connell, 135 (24) N.Y.L.J. (2-3-56) 13, Col. 7 M.

¶ 2. A license to operate a laundromat granted to the petitioner corporation could be revoked without a hearing where the secretary of the corporation had been five times convicted of bookmaking and in the application it was stated that none of the officers had ever been arrested or summoned to court. Inasmuch as a license could have been denied if the true facts had been revealed in the application, it could be thereafter revoked without a hearing.-Clamae v. O'Connell, 135 (24) N.Y.L.J. (2-3-56) 13, Col. 7 M.

¶ 3. Defendant which, in connection with its business of furnishing restaurants, night clubs and bars with a complete laundered linen service consisting of tablecloths, napkins, aprons, coats and pants, maintained a fully equipped laundry to launder the linens which at all times remained defendant's exclusive property and was supplied to customers on a rental basis, **held** not to be engaged in the business of laundering "for the general public" within meaning of Admin. Code § B32-167.0, subd. 1, and was not required to procure a laundry license. Since defendant laundered only its own property the purpose of the licensing statute to protect the public against conversion and loss or damage to its property did not exist. Furthermore, sanitation requirements were prescribed by the Sanitary Code and the licensing statute added nothing in that regard.-People v. Jacobs, 301 N.Y. 456, 95 N.E. 2d 702 [1950].

¶ 4. Maintenance of a coin-operated automatic Bendix Home Laundry machine in basement of 64 family apartment house for use of occupants of the building for domestic laundry work, **held** not to constitute the operation of a laundry within the meaning of Administrative Code §§ B32-167.0, B32-168.0 and B32-175.0, and hence no license was required for maintenance of such laundry machine.-People v. Benc, 288 N.Y. 318, 43 N.E. 2d 61 [1942].

¶ 5. A self-service automatic laundry was not a "laundry" within the meaning of this section and hence, no license was required. No employees or attendants were necessary to the operation of the automatic machines.-Thrift Wash, Inc. v. O'Connell, 11 Misc. 2d 318, 174 N.Y.S. 2d 70 [1958].

¶ 6. The provision of local law regulating coin-operated laundries which requires presentation to the Board of Estimate before presentation to the Mayor does not violate the City Charter since the law gives new powers to the Licensing Commissioner.-Joan Enterprises Inc. v. City of New York, 30 Misc. 2d 77, 219 N.Y.S. 2d 53 [1961], mod, 14 App. Div. 2d 526, 217 N.Y.S. 2d 278 [1962].

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-292

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-292 License required.

It shall be unlawful for any person to establish, maintain, or operate a laundry without a license therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-168.0 added chap 929/1937 § 1

Amended LL 14/1961 § 1

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-293

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-293 Application; special requirements.

a. The application for a license or for any renewal thereof to conduct a laundry shall be in writing and shall state the specific location where laundry work is processed and the maximum number of persons to be employed therein. The commissioner, before issuing any such license, shall cause an investigation to be made of the premises named and described in such application, for the purpose of determining whether the provisions of the health code, building code, safety and health standards promulgated pursuant to section twenty-seven of the labor law, state minimum wage law, local laws, regulations of municipal agencies and other requirements of this subchapter are fully complied with.

b. If the commissioner shall be satisfied that the proposed laundry and the premises wherein it is located conform to the provisions of this subchapter and other laws relating thereto, he or she shall issue or cause to be issued a license authorizing such applicant to establish, maintain, conduct or operate a laundry at the place designated in such application for and during the period of such license.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-169.0 added chap 929/1937 § 1

Amended LL 14/1961 § 1

Amended LL 18/1961 § 9

CASE NOTES FROM FORMER SECTION

¶ 1. A self-service automatic laundry was not a "laundry" within the meaning of § B32-167.0. But even if plaintiff's business were within the licensing powers of the Commissioner, he exceeded his authority in issuing a regulation which provided that all licensed laundries must be adequately attended at all times, including plaintiff's self-service automatic laundry. There was no existing legislative policy on having self-service laundromats unattended and the Commissioner of Licenses had no power to declare such a policy or create such a legislative standard.-Thrift Wash, Inc. v. O'Connell, 11 Misc. 2d 318, 174 N.Y.S. 2d 70 [1958].

¶ 2. Commissioner's finding that petitioner was not a fit and proper person to hold a laundromat license in view of his criminal record, deception practiced by him on two occasions as to ownership of the business and his operation of the business for over a year without a license was upheld.-Batson v. Tyler, 157 (36) N.Y.L.J. (2-23-67) 17, Col. 3 T.

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-294

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-294 Fee; bond.

a. Prior to the issuance of a laundry license, each applicant therefor shall pay a biennial fee and furnish a bond to the commissioner in such amounts as are indicated in the following schedule, depending on the number of persons employed by such applicant:

[See tabular material in printed version]

b. Any person dealing in laundry services as an independent contractor, jobber or as an agent-driver, shall be required to pay a biennial fee of three hundred forty dollars and furnish a bond of five hundred dollars.

c. Such bonds shall be executed with two or more sureties, or a duly authorized surety company approved by the commissioner, shall be payable to the people of the city, and shall be conditioned for compliance with the provisions of this subchapter, and upon the further condition that the licensee will pay to the city any fine, penalty or other obligation within thirty days of its imposition, or any final judgment recovered by any person dealing or trading with such licensee for the loss or conversion of a laundry bundle or any part thereof, within thirty days from the entry and filing of such judgment.

HISTORICAL NOTE

Section amended L.L. 51/1991 § 4, eff. July 17, 1991.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-171.0 added chap 929/1937 § 1

Subs a, b amended LL 42/1943 § 2

Amended LL 14/1961 § 1

Sub b amended LL 44/1970 § 7

Subs a, b amended LL 30/1983 § 7

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-295

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-295 Transferability.

Each such license shall not be transferable from person to person or from the location for which it is originally issued.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-172.0 added chap 929/1937 § 1

Amended LL 14/1961 § 1

Amended LL 74/1977 § 6

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-296

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-296 General provisions.

a. Each licensee shall keep inscribed on all vehicles conveying laundry in letters not less than two inches in height, his or her name and address, and the license number assigned to him or her by the commissioner.

b. Bills, tickets, cards, advertising or stationery issued or distributed by any licensee shall contain his or her name and address, and the license number assigned by the commissioner.

c. Charges to laundry consumers shall state indelibly, accurately and clearly the name and address of the consumer, and computation of the laundry charge.

d. Licensees classified as independent contractors or jobbers, before changing or transferring from one processing laundry to another, shall notify the commissioner of such change in writing.

e. Each licensee shall notify the commissioner promptly of any proposed sale, assignment or change in ownership of the premises affected hereunder.

f. All coin-operated and customer-activated laundries shall be required to have on the premises an attendant from 8:00 P.M. until closing or 6 A.M. the following day, whichever is earlier.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. f relettered and amended (former subd. g) L.L. 39/2006 § 9, eff.

Dec. 16, 2006. [See § 17-315 Note 1]

Subd. f repealed L.L. 39/2006 § 9, eff. Dec. 16, 2006. [See § 17-315

Note 1]

DERIVATION

Formerly § B32-173.0 added chap 929/1937 § 1

Amended LL 14/1961 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Legislation (Adm. Code B32-173.0) enacted in 1961 requiring all coin-operated or automatic laundries to close Sundays, close every day between midnight and 6 A.M., and to have an attendant between 6 P.M. and closing, **held** valid exercise of City's police power and in the public interest. However the provision for Sunday closing is an invasion of the field which the State has pre-empted and that portion, being severable from the other provisions, is invalid.-Joan Enterprises, Inc. v. City of New York, 145 (111) N.Y.L.J. (6-9-61) 15, Col. 5 M.

¶ 2. An order which declared unconstitutional, illegal and void L.L. 1961 No. 14 in its application to the closing of all laundry operations on Sunday was a final determination that could be made only after trial or on a motion for judgment on the pleadings or for summary judgment and was not within the scope of relief sought on a motion for injunctive relief.-Schacht v. City of New York, 14 A.D. 2d 488, 217 N.Y.S. 2d 279 [1961].

¶ 3. Requirements of the Code with respect to the closing of coin-operated laundries and the requirements as to attendants on duty were valid exercises of the City's police power.-Joan Enterprises Inc. v. City of New York, 30 Misc. 2d 77, 219 N.Y.S. 2d 53 [1961], mod, 14 A.D. 2d 526, 217 N.Y.S. 2d 278 [1962].

¶ 4. The provision of local law regulating coin-operated laundries which requires presentation to the Board of Estimate before presentation to the Mayor does not violate the City Charter since the law gives new powers to the Licensing Commissioner.-Joan Enterprises Inc. v. City of New York, 30 Misc. 2d 77, 219 N.Y.S. 2d 53 [1961], mod, 14 A.D. 2d 526, 217 N.Y.S. 2d 278 [1962].

¶ 5. The provisions of the Code which required automatic or coin-operated laundries to be closed on Sundays was invalid but such invalidity did not affect other provisions of the law.-Joan Enterprises Inc. v. City of New York, 30 Misc. 2d 77, 219 N.Y.S. 2d 53 [1961], mod, 14 A.D. 2d 526, 217 N.Y.S. 2d 278 [1962].

¶ 6. Local Law 14 of 1961 requires all laundromats to close on Sundays and between the hours of midnight and six in the morning on other days. It also requires that an attendant be present from six in the evening until closing. The provision requiring closing on Sunday is invalid because the State Legislature has pre-empted these Sabbath subjects. The other provisions are reasonable, constitutional and valid.-Schacht v. City of New York, 40 Misc. 2d 303, 243 N.Y.S. 2d 272 [1963].

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-297

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 14 LAUNDRIES*93

§ 20-297 Exemption. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 39/2006 § 10, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-174.0 added chap 929/1937 § 1

Amended LL 14/1961 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Defendant which, in connection with its business of furnishing restaurants, night clubs and bars with a complete laundered linen service consisting of tablecloths, napkins, aprons, coats and pants, maintained a fully equipped laundry to launder the linens which at all times remained defendant's exclusive property and were supplied to

customers on a rental basis, **held** not to be engaged in the business of laundering "for the general public" within meaning of Admin. Code § B32-167.0, subd. 1, and was not required to procure a laundry license. Since defendant laundered only its own property the purpose of the licensing statute to protect the public against conversion and loss or damage to its property did not exist. Furthermore, sanitation requirements were prescribed by the Sanitary Code and the licensing statute added nothing in that regard.-People v. Jacobs, 301 N.Y. 456, 95 N.E. 2d 702 [1950].

¶ 2. Maintenance of a coin-operated automatic Bendix Home Laundry machine in basement of 64 family apartment house for use of occupants of the building for domestic laundry work, **held** not to constitute the operation of a laundry within the meaning of Administrative Code §§ B32-167.0, B32-168.0 and B32-175.0, and hence no license was required for maintenance of such laundry machine.-People v. Benc, 288 N.Y. 318, 43 N.E. 2d 61 [1942].

FOOTNOTES

93

[Footnote 93]: * Subchapter amended L.L. 14/1961 with legislative findings.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-298

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-298 Definitions.

Whenever used in this subchapter, the term "locksmith" shall mean a person dealing in the mechanical actions, and the correct operations of all locks, key or keyless, or similar devices, and whose trade or occupation is repairing, servicing, installing, inspecting, opening and closing such locks by mechanical means, other than with the regular key made for the purpose, without altering, marring or destroying the original condition or effectiveness of such locks or similar devices in any shape or manner, or a maker or manufacturer of locks, pressure keys, skeleton keys, pass keys, jigs, or any other mechanical device to aid a locksmith in the plying of his or her trade.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 2, eff. July 23, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-182.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-299

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-299 License required.

It shall be unlawful for any person to carry on the business, trade or occupation of a locksmith, or for any person employed in a hotel, apartment house, office building, store, garage, service station, luggage shop, or any other establishment, to perform the duties of a locksmith, without a license therefor.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 2, eff. July 23, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-183.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The Commissioner of Licenses had authority to deny petitioner's application for a locksmith and keymaker's

license where petitioner had a criminal record prior to 1934.-Ciccio v. O'Connell, 146 (34) N.Y.L.J. (8-18-61) 4, Col. 5 T.

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-300

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-300 License fee.

The fee for a locksmith's license shall be fifty dollars.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 2, eff. July 23, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-184.0 added chap 929/1937 § 1

Sub a amended LL 20/1947 § 1

Amended LL 64/1955 § 1

Sub b amended LL 96/1955 § 1

Sub a amended LL 44/1970 § 9

Sub b repealed LL 74/1977 § 3

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-301

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-301 Regulations.

a. It shall be unlawful for any person other than a licensed locksmith to open any lock for which a key or combination may have been lost; or to make any repairs to, or change in, the mechanical adjustment or combination of any lock; or to make any original key or any other device or contraption to open a lock.

b. Every licensed locksmith shall keep a book in which he or she is to record: (1) the name and address of every person ordering master keys, keys by number, or ordering the opening of a locked item and the date and time such work was done; and (2) the means relied upon to identify any person ordering the opening of a locked item and to verify ownership of a locked item or authorization to order the opening of a locked item. Such book shall be open at all reasonable times for inspection by the commissioner, any departmental inspector, any police officer, or any person duly authorized by the commissioner.

c. Every licensed locksmith, except an itinerant locksmith, who is requested to open a locked item which is located on premises other than where the business is conducted shall, prior to opening such locked item, present a photocopy of the license issued hereunder to any person requesting the opening of such locked item. Every itinerant locksmith shall, prior to opening a locked item, indicate the display of the license issued hereunder to any person requesting the opening of such locked item.

d. Every locksmith shall make a good faith effort to: (1) determine the identification of any person requesting

the opening of a locked item; and (2) obtain proof that a person requesting the opening of a locked item is the proper owner of the locked item or is authorized to request that the locked item be unlocked.

f. Every locksmith opening a locked item shall obtain the signature or mark of the person requesting the opening of such locked item on a form to be prescribed by the commissioner. Such form shall state, in such manner as the commissioner shall by rule establish, that the person requesting that an item be opened is authorized to open that item. The forms shall be retained by the locksmith in such manner as the commissioner shall require, and shall be available at all reasonable times for inspection by the commissioner, any departmental inspector, any police officer, or any person duly authorized by the commissioner or any judge of the criminal court.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b relettered and amended L.L. 64/1992 § 4, eff. July 23, 1992. (formerly subd. c amended L.L. 11/1992 § 1, eff. Jan. 7, 1992.) repealed L.L. 64/1992 § 3, eff. July 23, 1992.

Subd. c relettered L.L. 64/1992 § 5, eff. July 23, 1992. (formerly subd. d added L.L. 11/1992 § 1, eff. Jan. 7, 1992.)

Subd. d relettered L.L. 64/1992 § 5, eff. July 23, 1992. (formerly subd. e added L.L. 11/1992 § 1, eff. Jan. 7, 1992.) Subd. f added L.L. 11/1992 § 1, eff. Jan. 7, 1992.

DERIVATION

Formerly § B32-185.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-302

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-302 Equipment to be listed.

Each manufacturer or jobber of devices aiding locksmiths in their trade shall file a list of his or her equipment with the department and with the police department, enumerating in such list all master key blanks, code books, machinery, skeleton keys that open and operate more than one lock and known to the trade as pressure keys, key sets for automobiles, vibrating lockpickers, and all similar equipment in his or her possession. It shall be unlawful to dispose of any such equipment to any person other than a licensed locksmith.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-186.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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NYC Administrative Code 20-303

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-303 Keys to be marked.

All keys made by a licensed locksmith shall be stamped with his or her name and address or with the license number issued to him or her by the commissioner. All master keys in addition shall bear the word "master", and duplicates shall be made only upon the signed order of the owner of the locks which such keys are designed to operate or his or her authorized agent. Master keys shall be made only by a licensed locksmith.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 6, eff. July 23, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-187.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

Amended LL 73/1960 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-304

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-304 Licenses to be displayed.

Every licensed locksmith shall display the license issued hereunder in a conspicuous place where it can be readily seen by anyone entering the premises where the business is conducted. Where the licensed locksmith is not in business for himself or herself but is employed by another, it shall be incumbent upon the licensee and his or her employer to display the license hereunder in a conspicuous place where it can be readily seen by anyone entering the premises wherein the business is conducted. Where more than one locksmith is employed in such premises the license of the person then in charge need only be displayed. In the case of an itinerant locksmith the license shall be on his or her person or prominently displayed upon the working kit he or she may carry or upon any vehicle which he or she may use in the plying of his or her trade or occupation.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 6, eff. July 23, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-188.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

Amended LL 1/1967 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-305

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-305 Prohibition as to itinerant locksmiths.

It shall be unlawful for any licensed itinerant locksmith to ply his or her trade or occupation or maintain a stand within five hundred feet of any store or other permanent place of business of a licensed locksmith, or at any other place upon the streets or highways of the city where police regulations will not permit.

HISTORICAL NOTE

Section amended L.L. 64/1992 § 6, eff. July 23, 1992.

Section added chap 907/1985 § 1

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-189.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-306

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-306 Proof of qualifications; fingerprinting.

a. The commissioner shall require any applicant for a locksmith's license to furnish documentary proof that he or she is a qualified locksmith, and if such evidence is not satisfactory to the commissioner, the commissioner may require the applicant to submit to any examination by at least two licensed locksmiths to be named by the commissioner, to serve without compensation, and such licensed locksmiths, after examining the applicant shall certify in writing to the commissioner whether or not the applicant in their opinion is sufficiently qualified to be licensed as a locksmith.

b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

HISTORICAL NOTE

Section amended L.L. 66/1989 § 7

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-191.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-306.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-306.1 Refusal to issue or renew, or suspension or revocation based on criminal conviction.

In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter or chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

HISTORICAL NOTE

Section added L.L. 66/1989 § 8.

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-307

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 15 LOCKSMITHS*94

§ 20-307 Exemptions.

a. Members of city, state or federal departments, who are assigned to locksmith work wholly within their respective departments or divisions, shall be exempt from the operation of this subchapter.

b. No person shall be employed by a duly licensed locksmith as an apprentice or trainee unless such person shall have a trainee-license, the annual fee for which shall be ten dollars, and during the time in which such person is so employed he or she shall be under the direct supervision of said licensed locksmith and such person may perform the duties of a locksmith. Such apprentice or training period shall not exceed thirty-six months. Each such licensed locksmith employer shall be responsible for notifying the department as to the termination or other change in the employment of any such apprentice or trainee.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-192.0 added chap 929/1937 § 1

Amended LL 64/1955 § 1

Amended LL 1/1967 § 2

FOOTNOTES

94

[Footnote 94]: * Subchapter heading amended L.L. 64/1992 § 1, eff. July 23, 1992.

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Administrative Code of the City of New York

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NYC Administrative Code 20-308

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 16 SALES

§ 20-308 Definitions.

Whenever used in this subchapter, the following terms shall mean and include:

1. "Sale." A sale or an offer to sell to the public goods, wares, and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising on the part of the seller that such sale is:

a. Anticipatory to the termination, closing, liquidation, wind-up, discontinuance, removal, conclusion, or abandonment of the business, and advertised in the following phrases and in any other phrase or phrases of like or similar language which reasonably convey to the public that the sale is being conducted for such purpose: "going out of business sale," "trustee's sale," "liquidation sale," "executor's sale," "administrator's sale," "insolvent sale," "mortgage sale," "adjustor's sale," "receiver's sale," "loss of lease sale," "forced out of business sale," "branch store discontinuance sale," "removal sale," "warehouse removal sale."

b. Pursuant to the execution of a legal right by a party other than the original owner or owners of the goods, wares and merchandise, without court order, and advertised in the following phrases and in any other phrase or phrases of like or similar language which reasonably convey to the public that the sale is of such a nature: "adjustment sale," "reorganization sale," "creditors' committee sale," "assignee's sale."

c. Pursuant to an intention to renovate, restore, rebuild or alter the premises in which the sale is taking place, and advertised in the following phrases and in any other phrase or phrases of like or similar language which reasonably convey to the public that the sale is conducted for such purposes: "alteration sale," "remodeling sale," "renovation sale."

d. A result of damage or alteration to the goods, wares and merchandise being offered for sale by reason of a disaster or other fortuitous occurrence, and advertised in the following phrases and in any other phrase or phrases of like or similar language which reasonably convey to the public that the sale is being conducted as a result of such occurrence: "fire sale," "insurance salvage sale," "damaged goods sale," "smoke sale," "water damage sale."

2. "Publish," "publishing," "advertisement," "advertising." Any and all means of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement, by television announcement, and any and all means including oral, written or printed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-205.0 added LL 3/1959 § 1

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NYC Administrative Code 20-309

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 16 SALES

§ 20-309 License required.

It shall be unlawful for any person to publish or conduct any sale of the type herein defined without a license therefor and a license issued pursuant to this subchapter for a sale advertised as a "branch store discontinuance sale" shall apply only to, and the sale shall be conducted only at, the premises of the branch which is being discontinued.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-206.0 added LL 3/1959 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The refusal of the Commissioner of Licenses to grant petitioner a "going out of business" sale license was not arbitrary, where petitioner had applied for a similar license on an earlier occasion, conducted a sale, but did not go out of business, and on the occasion in issue, petitioner did not wait for the issuance of a license but displayed signs appropriate to a closing out sale.-Matter of Windsor Madison Corp., 9 Misc. 2d 1087, 172 N.Y.S. 2d 198 [1958].

¶ 2. The provisions of this article requiring a license to conduct a "going out of business" sale neither deprived a merchant of property without due process of law nor interfered with his right of free speech and hence, the article was not unconstitutional.-Matter of Windsor Madison Corp., 9 Misc. 2d 1087, 172 N.Y.S. 2d 198 [1958].

¶ 3. The statute regulating closing-out sales is a reasonable exercise of the police power in the protection of the public against fraud, and a license fee of $25 is a reasonable charge for the cost of investigation of the applicant. Where defendant, upon refusal of the Commissioner to issue a license, nevertheless displayed large sale signs upon its premises, it was convicted and separately fined upon eight counts.-People v. Windsor Madison Corp., 12 Misc. 2d 446, 173 N.Y.S. 2d 964 [1958].

¶ 4. Where, after defendant was refused a license to conduct a "closing out" sale because of prior violations, it nevertheless persisted in posting placards and advertising in newspapers, its conduct was enjoined.-City of New York v. Windsor Madison Corp., 14 Misc. 2d 674, 173 N.Y.S. 2d 964 [1958].

¶ 5. Rule 11 of the Rules and Regulations of the Department of Licenses, which provided that an auctioneer be held responsible for full compliance by his principal with the law and rules of the department, was inconsistent with § B32-216.0 which exempts licensed auctioneers selling at auction from obtaining a license for such sale. Accordingly, it was error to find a licensed auctioneer guilty of violating Rule 11 where he conducted an auction sale for a creditors committee which had failed to obtain a license.-Matter of Kasper v. O'Connell, 38 Misc. 2d 3, 237 N.Y.S. 2d 722 [1963].

¶ 6. Newspaper advertisement which read "After 36 years of Value-Giving . . . Last 5 Days of the Greatest Clothing Sale in Our History" did not reasonably convey to the public that the store was going out of business. Neither did window advertisement which read: "Choice of the House Last 7 Days".-People v. Litt-Chinitz, Inc., 38 Misc. 2d 864, 239 N.Y.S. 2d 58 [1963].

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Administrative Code of the City of New York

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NYC Administrative Code 20-310

Administrative Code of the City of New York

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§ 20-310 Application.

a. Application for such license shall be in writing and shall be executed by the applicant under oath.

b. Such application shall contain:

1. Type of sale to be conducted and reason for conducting such sale;

2. A description of the place where such sale is to be held;

3. The nature of the occupancy, whether by lease or sub-lease, and the date of termination of such occupancy;

4. The means to be employed in publishing such sale, together with the text of any and all proposed advertising matter;

5. An itemized list of the goods, wares and merchandise to be offered for sale;

6. Where and from whom such stock was purchased or acquired; and, if not purchased, the manner of such acquisition.

7. Any additional information as the commissioner may require.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-207.0 added LL 3/1959 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-311

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 16 SALES

§ 20-311 License; term.

Upon filing such application, the commissioner, after investigation thereof, may issue such license, in his or her discretion, for a period not exceeding thirty days.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-208.0 added LL 3/1959 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-312

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 16 SALES

§ 20-312 Renewals; term.

Upon satisfactory proof by the licensee that the stock itemized in the original application has not been entirely disposed of, the commissioner may renew such license for one additional period not exceeding thirty days, except, however, in a sale under paragraph a of subdivision one of section 20-308 of this subchapter, the commissioner may grant a second renewal period of thirty days.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-209.0 added LL 3/1959 § 1

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NYC Administrative Code 20-313

Administrative Code of the City of New York

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§ 20-313 Rules and regulations.

The commissioner may make such rules and regulations for the conduct and advertisement of the sales defined in section 20-308 of this subchapter and such other rules and regulations as may be necessary to carry out the purposes of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-210.0 added LL 3/1959 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-314

Administrative Code of the City of New York

Title 20 Consumer Affairs

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SUBCHAPTER 16 SALES

§ 20-314 Fees.

Upon filing an application for an original or for each renewal license to advertise and conduct such sale, the applicant shall pay to the commissioner a fee of fifty dollars. If any such application be disapproved, such payment shall be forfeited to the commissioner to defray the cost of investigating the statements contained in such application.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-211.0 added LL 3/1959 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-315

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-315 Stock records.

a. A duplicate original of the application and stock list pursuant to which such license was granted shall be available at all times to the commissioner or to his or her inspectors, and the licensee shall permit such inspectors to examine all merchandise on the premises for comparison with such stock list.

b. At the close of business each day the stock list attached to such application shall be revised and items on such list disposed of during such day shall be noted thereon.

c. Suitable books and records as prescribed by the commissioner shall be kept by the licensee and shall be available at all times to the inspectors of the department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-212.0 added LL 3/1959 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-316

Administrative Code of the City of New York

Title 20 Consumer Affairs

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SUBCHAPTER 16 SALES

§ 20-316 Display of license.

Upon commencement of any sale, and for the duration thereof, the license therefor shall be displayed on the premises, but such license shall be displayed only in its original form.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-213.0 added LL 3/1959 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-317

Administrative Code of the City of New York

Title 20 Consumer Affairs

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SUBCHAPTER 16 SALES

§ 20-317 Advertising.

a. All advertising shall be descriptive of the nature of such sale as stated in the application therefor. The language in such advertising shall be identical with the advertising matter set forth in the original or renewal application.

b. It shall be unlawful to indicate in such advertising, either directly or indirectly, that such sale is held with the approval of the commissioner and no reference shall be made to such license in any form of advertising, promotion or display.

c. Misrepresentations prohibited. No licensee shall make or cause to be made any assertion, representation or statement of fact in such advertising which is untrue, deceptive, or misleading. No licensee, in an effort to sell merchandise, shall make or cause to be made any oral assertion, representation, or statement of fact which is untrue, deceptive or misleading.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-214.0 added LL 3/1959 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-318

Administrative Code of the City of New York

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§ 20-318 Resumption of business.

No person shall, upon the conclusion of any sale as defined in subdivision one of section 20-308 of this subchapter, continue to conduct a business or business operation of the same or similar nature to that for the discontinuance of which such license was issued at the same premises nor, within one year after the conclusion of such sale, resume such business at such same premises.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-215.0 added LL 3/1959 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Continuing a business after a license to conduct a going-out-of-business sale had been revoked was not a violation of this section. The revocation of the license prevented a conclusion of the sale.-People v. Litt-Chinitz, 38 Misc. 2d 864, 239 N.Y.S. 2d 58 [1963].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-319

Administrative Code of the City of New York

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§ 20-319 Exemptions.

The following persons shall be exempt from the provisions of this subchapter:

1. Persons acting pursuant to an order or the process of a court of competent jurisdiction.
2. Sheriffs and marshals acting in accordance with their powers and duties as public officers.
3. Duly licensed auctioneers selling at auction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-216.0 added LL 3/1959 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Rule 11 of the Rules and Regulations of the Department of Licenses, which provided that an auctioneer be

held responsible for full compliance by his principal with the law and rules of the department, was inconsistent with this section which exempts licensed auctioneers selling at auction from obtaining a license for such sale. Accordingly, it was error to find a licensed auctioneer guilty of violating Rule 11 where he conducted an auction sale for a creditors committee which had failed to obtain a license.-Matter of Kasper v. O'Connell, 38 Misc. 2d 3, 237 N.Y.S. 2d 722 [1963].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-320

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-320 Definitions.

As used in this subchapter, the following terms shall mean and include:

1. "Garage." A building, shed or enclosure or any portion thereof which has the capacity to hold five or more motor vehicles and which is used to accommodate, store, or keep any motor vehicle for the payment of a fee or other consideration charged directly or indirectly.

2. "Parking lot." Any outdoor space or uncovered plot of ground which has the capacity to hold five or more motor vehicles and is used to accommodate, store, or keep any motor vehicle for the payment of a fee or other consideration, charged directly or indirectly.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-250.0 added LL 61/1947 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The parking lot operator at LaGuardia Airport was liable for damage to plaintiff's car which was stolen from the lot. The fact that the lot was operated under a permit from the Port of New York Authority did not change the operator's liability. Failure to fence in the lot and failure to construct a toll gate in a location where all parked cars could be seen was negligence. The operator was not relieved of liability by the fact that plaintiff locked his car and took the key, a statement on the parking ticket that the operator assumed no liability, or the fact that the parking fee was small.-Nargi v. Parking Associates Corp., 148 (89) N.Y.L.J. (11-7-62) 17, Col. 5 M.

¶ 2. Revocation of parking lot license on basis of a departmental hearing following licensee's arrest on bookmaking charge was not arbitrary, even though licensee was acquitted of such charge. Licensee had two prior convictions for bookmaking and his license had been suspended on a past occasion.-McAdam v. O'Connell, 150 (109) N.Y.L.J. (12-5-63) 13, Col. 7 M.

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NYC Administrative Code 20-321

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-321 License required; fees; term.

a. It shall be unlawful for any person to maintain, operate or conduct a garage or parking lot without a license therefor issued by the commissioner.

b. A license to maintain, operate or conduct a garage or parking lot shall be granted to a person of good character, in accordance with the provisions of this subchapter and the rules and regulations of the commissioner.

c. The biennial fee for every such license or renewal thereof shall be as follows:

1. For each garage or parking lot which has the capacity to hold not more than twenty-five motor vehicles, three hundred dollars.

2. For each garage or parking lot which has the capacity to hold twenty-six, and not more than fifty motor vehicles, three hundred eighty dollars.

3. For each garage or parking lot which has the capacity to hold fifty-one and not more than one hundred motor vehicles, five hundred forty dollars.

4. For each garage or parking lot which has the capacity to hold more than one hundred motor vehicles, six hundred ninety dollars.

d. A commuted license may be issued for a period not exceeding any four months in the year at one-half the fees provided for hereinabove, except that the minimum rate for any such commuted license shall not be less than one hundred fifty dollars.

e. Notwithstanding the provisions above, a fee of three hundred dollars shall be paid for a license to conduct a garage or parking lot maintained, operated or conducted under thirty-day permits issued by the city, any agency thereof, or the transit authority.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. c, d amended L.L. 36/1990 § 1 eff. July 12, 1990.

Subd. e amended L.L. 44/1995 § 1, eff. June 2, 1995 and retro. to Mar.

31, 1995.

Subd. e op par amended L.L. 36/1990 § 2 eff. July 12, 1990.

DERIVATION

Formerly § B32-251.0 added LL 61/1947 § 1

Sub f par 3 amended chap 100/1963 § 582

Subs c, f amended LL 44/1970 § 10

Sub e repealed LL 74/1977 § 3

Subs c, d amended LL 30/1983 § 8

CASE NOTES FROM FORMER SECTION

¶ 1. Local Law No. 61 of 1947 (Code § B32-250.0 etc.) which purports to license and regulates garages and parking lots within the City of New York is constitutional. The law was enacted after a public hearing revealing the shortage of garage and parking space of emergency proportions and widespread abuses and had a substantial relation to the general welfare of the City.-Pomeranz v. City of New York, 1 Misc. 2d 486, 151 N.Y.S. 2d 789 [1955] aff'd, 7 App. Div. 2d 752, 181 N.Y.S. 2d 766 [1958].

¶ 2. The provisions of § B32-250.0 et seq were designed to alleviate abuses which were prevalent prior to the enactment of Local Law No. 61 of 1947 and hence had a substantial relation to the welfare of the inhabitants of the City and constituted a valid exercise of the police powers.-Id.

¶ 3. Refusal of Commissioner of Licenses to issue to petitioner a parking lot license for premises situated on a business use district and as to which the Department of Housing and Buildings had issued a certificate of occupancy for parking of motor vehicles, **held** to have been arbitrary, where the character and qualifications of the applicant and its officials were not questioned. Objections of neighbors based on noises which would emanate from the operation of the lot, traffic hazards and congestion, lack of need for additional parking lot facilities and the residential character of the neighborhood, should have been addressed to the Board of Estimate and Apportionment which recently changed the zone to business. Charter § 773-a and Admin. Code B32-251.0 granting discretion to the Commissioner, did not permit withholding of the permit for the reasons advanced.-B'klyn Parking Corp. v. Cannella, 193 Misc. 811, 85 N.Y.S. 2d 389 [1948].

¶ 4. Denial to petitioner corporation of license to operate garage, on ground that petitioner's secretary-treasurer had falsely stated in the application that the officers had never been arrested whereas in fact petitioner's president had been arrested in 1943, and because a certain notorious criminal had been associated with them theretofore in the operation of a small garage, **held** to have been arbitrary, where the president's arrest grew out of a marital dispute as result of which, with advice of counsel, the president had removed his property from his apartment, the secretary-treasurer who made the application for the license never knew of such arrest, the association with the "notorious criminal" had been innocent and lasted but a short time when he was killed, and the officers had fully cooperated with the authorities in their investigation of his murder.-Hall Service Stations, Inc. v. McCaffrey, 97 N.Y.S. 2d 626 [1950].

¶ 5. Determination of Commissioner of Licenses revoking petitioner's license to operate a parking lot for failure of petitioner to observe the Commissioner's regulation requiring the premises of parking lots to be adequately attended at all times during operation, with result that, allegedly without petitioner's knowledge, a shack on the premises had been used for at least one week for bookmaking operations by a renter, **held** not clearly unreasonable and would not be disturbed. The parking lot was enclosed by a fence with a locked door, to which each customer had a key, and the Commissioner's finding that two or three visits a day by the licensee did not constitute compliance with the regulation, was not unreasonable.-In re Schachne (McCaffrey), 104 N.Y.S. 2d 1017 [1951].

¶ 6. The Commissioner refused to issue petitioner a license to operate a parking lot on certain premises because the premises were within the boundaries of a proposed slum clearance project and the Federal government had objected to the continued use of the area for parking. **Held:** the Commissioner was wrong. He could not deny the application by reason of conditions other than those specified in the applicable legislation. Further, petitioner was willing to stipulate that he would vacate the premises upon the demand of his landlord and surrender the license to the Commissioner.-Matter of McDonald Parking Lot, Inc., 9 Misc. 2d 516, 170 N.Y.S. 2d 574 [1957].

¶ 7. The determination of the Commissioner of Licenses which denied a parking lot license for premises owned by a corporation whose sole stockholders were husband and wife was not arbitrary and capricious where the denial was based on the character of the husband and was supported by the record.-Benson Parking Corp. v. O'Connell, 31 Misc. 2d 1037, 220 N.Y.S. 2d 1010 [1961].

¶ 8. The Commissioner of Licenses did not act arbitrarily in suspending petitioner's parking lot license where the ordinance showed petitioner accepted a car for parking on a public street.-358 West 52nd St. Corp. v. O'Connell, 147 (20) N.Y.L.J. (1-29-62) 14, Col. 4 T.

¶ 9. Although defendant's application for a license to operate a parking lot was rejected by the Department of Licenses on the ground that the property had been leased to defendant by the Port of New York Authority and the city had no license and jurisdiction over Port Authority tenants, he could properly be found guilty of violating this section.-People v. Anderson, 45 Misc. 2d 1005, 258 N.Y.S. 2d 603 [1965].

¶ 10. Refusal of Department of Consumer Affairs to issue petitioner who had obtained a temporary certificate of occupancy from the Department of Buildings for garage facilities a license to operate a public garage in leased premises located in a multiple dwelling on the ground that the rate structure proposed by petitioner and the nature and length of the tenancies sought to be attracted violated the zoning law was arbitrary as that Department is not authorized to enforce the zoning law.-In re Continental 10 West Garage, Inc. (Grant), 163 (66) N.Y.L.J. (4-7-70) 16, Col. 3 F.

¶ 11. Since Administrative Code § C26-121.2 and City Charter § 1804 do not preclude the licensing power of the City over garages and parking lots the defendant must obtain a license to operate a garage and parking lot in addition to a valid certificate of occupancy.-People v. Kadin, 172 (87) N.Y.L.J. (11-1-74) 19, Col. 3 F.

CASE NOTES

¶ 1. The Supreme Court has held that the portion of the statute which requires licensees to be of "good character"

is unconstitutionally vague. The statute failed to provide adequate notice of the required conduct, or adequate standards to be used by the persons responsible for enforcing the law. The court said that it was at a loss to determine what conduct the applicant had to exhibit in order to be of "good character." 164 Bronx Parking, LLC v. City of NY 2008 NY Misc. Lexis 307, 239 NYLJ 9 (Sup. Ct. Bronx County).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-322

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-322 Exemptions.

The provisions of this subchapter shall not apply to the maintenance, operation or conduct of a garage or parking lot:

a. by the city or any agency thereof;

b. in conjunction with a business for the exclusive accommodation of patrons of such business or the employees of such business; or

c. by the owner or lessee of a multiple dwelling for the exclusive accommodation of the tenants or residents of such multiple dwelling.

HISTORICAL NOTE

Section amended L.L. 44/1995 § 2, eff. June 2, 1995 and retro. to Mar.

31, 1995.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-252.0 added LL 61/1947 § 1

Amended LL 75/1968 § 1

Amended LL 34/1969 § 1

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NYC Administrative Code 20-323

Administrative Code of the City of New York

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SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-323 Applications.

Each applicant for such license shall file with the commissioner a written application in such form and containing such information as may be prescribed by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-253.0 added LL 61/1947 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-324

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-324 Rate schedules; change of rates.

a. Every applicant for a license to maintain, conduct or operate a parking lot or garage shall file with the commissioner a schedule of rates showing the prices charged daily, weekly, and monthly for parking or storage of motor vehicles.

b. Each such licensee shall post conspicuously at the public entrance to the garage or parking lot a sign composed of letters and figures of such size, height, width, spacing, color and description as shall be prescribed by the rules and regulations of the commissioner. Such sign shall set forth the schedule of rates charged, the hours during which such garage or parking lot will remain open for business, and the maximum capacity of such garage or parking lot. Where more than one rate is charged for the parking or storage of a motor vehicle, the letters and figures designating each such rate shall be of the same size and dimensions.

c. No licensee shall make any charge for parking or storing in a garage or parking lot in excess of the rates set forth in the schedule filed with the commissioner, unless and until at least sixty days prior to the effective date of such changed rates, such licensee has filed with the commissioner, in writing, such change in rates and has posted such changed rates on signs which conform with the requirements of subdivision b hereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-254.0 added LL 61/1947 § 1

Amended LL 43/1966 § 1

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NYC Administrative Code 20-325

Administrative Code of the City of New York

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§ 20-325 License not transferable.

No license issued under the provisions of this subchapter shall be transferred or assigned to any person or used by any person, other than the licensee to whom it was issued, nor shall such license be used at any location other than the location stated in such license.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-255.0 added LL 61/1947 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-326

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-326 Claim checks.

Every licensee, at the time of accepting a motor vehicle for parking or storage, shall furnish to the driver of such vehicle a distinctive claim check acknowledging the receipt of the vehicle and showing the date of such acceptance. Every such claim check shall contain the name of the licensee and his or her license number. Such licensee shall not be required to issue a claim check for any vehicle which is parked or stored on a weekly or monthly basis, nor for any vehicle parked in a parking lot where the patrons are permitted to park and lock their own cars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-256.0 added LL 61/1947 § 1

Amended LL 2/1962 § 1

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NYC Administrative Code 20-327

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-327 Limitation on number of vehicles; manner of storage.

a. No motor vehicle shall be accepted by a licensee for parking, or storage, in excess of the capacity of the garage or parking lot, as shown in the license. Whenever the maximum capacity of a garage or parking lot has been reached, the licensee shall post, at the public entrance thereof, a sign, composed of letters of such size, height, width, spacing, color and description as shall be prescribed by the rules and regulations of the commissioner, stating that such maximum capacity has been reached.

b. Vehicles shall be stored or parked on the licensed premises in such manner as shall be prescribed by the rules and regulations of the commissioner, for the purpose of safeguarding persons and property and permitting adequate inspection of the premises.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-257.0 added LL 61/1947 § 1

Amended LL 43/1966 § 2

CASE NOTES

¶ 1. The operator of a parking garage who was found on one occasion to have parked nine cars in excess of lawful capacity of garage should have been fined $350 for one violation regardless of the number of cars parked rather than $900 based on a penalty of $100 for each car parked in excess of the lawful capacity.-Moyers Bros. Parking Systems Inc. v. Sherman, 105 Misc. 2d 527 [1980].

¶ 2. NYC Dep't of Consumer Affairs regulations authorizing warrantless inspection of parking garages is constitutional. The scope of investigation is to inspect records or documents and determine compliance with city codes. There is a long history of city's regulations of the parking garage industry. Amsterdam Garage v. Consumer Affairs, 139 Misc. 2d 799 [1988].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-328

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-328 Unauthorized use.

a. Definition. Whenever used in this section, unauthorized use shall mean any and all unlawful act or acts and any activity not expressly permitted by the owner, lessor or operator of any property.

b. The commissioner shall receive and investigate complaints concerning the unauthorized use of parking lots during the hours when such parking lots are not in operation.

c. Upon due notice and hearing the commissioner shall be empowered to order remedies to cure such unauthorized use including but not limited to requiring that the licensee lock or guard the parking lot when it is not in operation.

d. The commissioner shall promulgate such regulations as may be necessary to effectuate the purpose of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-257.1 added LL 40/1977 § 2

(legislative findings, parking lots special problem, LL 40/1977 § 1)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-329

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 17 GARAGES AND PARKING LOTS

§ 20-329 Payments of judgments.

Every license issued pursuant to this subchapter shall be subject to suspension or revocation upon the failure of such licensee to pay or satisfy any judgment secured against him or her by anyone who stored or parked a motor vehicle in the garage or parking lot licensed hereunder, provided that such judgment was secured in a court of competent jurisdiction against the licensee for acts of commission or omission with regard to the business maintained, operated or conducted by him or her pursuant to the license issued hereunder.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-258.0 added LL 61/1947 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-371

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-371 Licensing of sight-seeing buses, horse drawn cabs and horse drawn cab drivers.

Legislative findings. The legislative findings heretofore made in relation to the business of sight-seeing buses and horse drawn cabs in the city of New York and set forth in local law number ten of nineteen hundred sixty-four continue to be valid; such businesses are vested with a public interest and their regulation and control continue to be necessary and essential in order to cope with certain evils and hazards which existed in the absence of governmental supervision. The supervision formerly was reposed in the police commissioner, but recent experience and study indicate that jurisdiction over such businesses should be transferred to the commissioner. It is further found that the present number of horse drawn cabs licensed in the city of New York is adequate to meet the public need and demand and should be preserved, unless the commissioner finds that additional licenses are necessary and advisable.

HISTORICAL NOTE

Section amended L.L. 31/1995 § 1, eff. Apr. 21, 1995.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-322.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26 (Licensing of sight-seeing buses, horse drawn cabs and drivers-legislative findings)

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-372

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-372 Definitions.

Whenever used in this subchapter, the following terms shall mean:

1. "Owner" shall include any person, firm, partnership, corporation or association owning and operating a sight-seeing bus or buses, or horse drawn cab or cabs, and shall include a purchaser under a reserve title contract, conditional sales agreement or vendor's agreement and the lessee of such vehicle or vehicles under a written lease or similar contract provided such purchaser or lessee of sight-seeing bus or buses shall be entitled to obtain in his or her name a license or licenses therefor from the commissioner of motor vehicles of the state of New York.

2. "Sight-seeing bus license" shall designate the license issued by the commissioner for each sight-seeing bus.

3. "Inspection card" shall designate the card issued by the commissioner for the sight-seeing bus licensed or horse drawn cab licensed, which card shall display the license number and capacity of such vehicle.

4. "Sight-seeing bus" shall mean a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

5. "Horse drawn cab" shall mean a horse drawn vehicle operating for hire, so designed and constructed to comfortably seat not more than four adults, or two adults and four children, each of whom is under twelve years of age, or three adults and two children, each of whom is under twelve years of age, in the interior thereof.

6. "Horse drawn cab driver" shall include any person licensed to drive a horse drawn cab in the city of New York.

7. "Horse drawn cab license" shall designate the license issued by the commissioner for each horse drawn cab.

8. "Horse drawn cab driver's license" shall designate the license issued by the commissioner for a driver of a horse drawn cab.

9. "Certificate of conformity" shall mean that document issued by the Administrator of the United States environmental protection agency pursuant to section 206(a) of the Clean Air Act of 1990, 42 U.S.C. §7525(a), reflecting such Administrator's determination that an engine conforms to emissions standards and other regulations issued under section 202 of the Clean Air Act of 1990, 42 U.S.C. §7521, as well as the terms and the time periods prescribed thereon, and as such laws and such regulations may be amended from time to time.

10. "Fleet" shall mean a group of vehicles owned or operated by the same person.

HISTORICAL NOTE

Section amended L.L. 31/1995 § 2, eff. Apr. 21, 1995.

Section added chap 907/1985 § 1

Subd. 5 amended (as subd. 7) L.L. 2/1994 § 8, retro. to Jan. 1, 1994.

Subds. 9, 10 added L.L. 3/2001 § 1, eff. Jan. 19, 2001.

DERIVATION

Formerly § B32-323.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-373

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-373 License required; fee; term.

a. It shall be unlawful to operate or permit another to operate for hire a sight-seeing bus or horse-drawn cab within the city unless the owner shall have first obtained a license therefor from the commissioner. An applicant for a horse-drawn cab license shall be at least eighteen years of age.

b. Fees. The original and renewal license fee for each sight-seeing bus shall be fifty dollars and for each horse-drawn cab shall be fifty dollars.

c. The commissioner shall not renew any horse-drawn cab license in the event that he or she shall determine that the horse-drawn cab has not been operated for at least four months during the preceding license year, provided that such failure to operate shall not have been caused by strike, riot, war or other public catastrophe. However, in the event that it is shown to the commissioner by competent proof that the licensee has been disabled through illness or has been unable to operate the horse-drawn cab because of other cause beyond his or her control, the commissioner may renew such license.

d. The commissioner may refuse to renew any horse drawn cab license in the event that he or she determines that the holder of the horse drawn cab license has demonstrated a disregard for the provisions of this subchapter as illustrated by repeated violations of such provisions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. d added L.L. 2/1994 § 9, retro. to Jan. 1, 1994.

DERIVATION

Formerly § B32-324.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

Sub b amended LL 44/1970 § 14

Sub a amended LL 74/1977 § 9

(Title laid out as "License required; fee")

Sub b amended LL 30/1983 § 11

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-374

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-374 Granting and transferring of licenses.

a. Any person, firm, partnership, corporation or association, owning or operating a sight-seeing bus, or buses, or horse-drawn cab, or cabs engaging in the business of transporting passengers in, about, over and upon any of the streets, avenues, bridges, highways, boulevards or public places within the limits of the city of New York, shall be issued a license for each bus or cab so operating, provided, however any such person, firm, partnership, corporation or association owning or operating a sight-seeing bus or buses, shall first have obtained a license or licenses, as he or she shall be entitled to receive from the commissioner of motor vehicles of the state of New York as made and provided by law.

b. It shall be unlawful for a license, after being issued by the commissioner, to be transferred to any person, firm, partnership, corporation or association for any cause whatsoever, except that licenses for horse-drawn cabs may be transferred with the approval of the commissioner. Upon voluntary sale or transfer of a licensed horse-drawn cab by the holder of a license or his or her legal representative, the licensee shall immediately notify the commissioner of his or her intention to replace such horse-drawn cab, or shall surrender his or her license. If the license is surrendered, the vendee or transferee may make application to the commissioner for the licensing of the horsedrawn cab so purchased. A new license shall then be issued by the commissioner in place of the license so surrendered, provided the applicant has demonstrated to the satisfaction of the commissioner that he or she is qualified to assume the duties and obligations of a horse-drawn cab license.

c. The commissioner shall issue additional licenses only after conducting a public hearing to determine whether the public convenience, welfare and necessity require the operation of additional horse-drawn cabs. The public hearing shall be called upon his or her own motion or upon written request by any applicant. Notice of such public hearing shall be published in the City Record once a week for two consecutive weeks and shall be mailed to all current licensees. If the commissioner shall determine that additional horse-drawn cabs are necessary and advisable, he or she shall certify the number of new licenses to be granted. Not more than one such public hearing shall be held during any calendar year and the commissioner may refuse to consider any request if it appears that a recent public hearing has adequately considered the question. In making his or her determination, the commissioner shall consider among other things, the income of the driver, the income of the owner, the effect upon traffic, and the public demand. The new licenses which are granted shall be allocated to the then existent licensees in the ratio of the number of licenses held by the licensee to the total number of licenses issued and in effect. If a licensee does not accept his or her allotted number within sixty days, his or her additional licenses shall be allocated in the same manner among the remaining licensees. If the number of additional licenses authorized is insufficient to permit such allocation, then the distribution among those licensees entitled to the smallest number of additional licenses shall be made so that priority shall be given to those who have been uninterruptedly licensed for the longest period. New applicants for such additional licenses shall be considered only when the present licensees refuse to accept their allocation of licenses in the manner provided above. The distribution of such additional licenses to new applicants shall be in the order of their filing, provided however that each new applicant shall not be entitled to more than one such additional license until each new applicant who has filed at the time of distribution and who is otherwise eligible has received one license.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-325.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-375

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-375 License plate.

Upon the payment of the license fee the commissioner shall issue a license to the owner of the sightseeing bus or horse drawn cab together with a license plate to be securely affixed to a conspicuous and indispensable part of such sightseeing bus or securely and conspicuously affixed to the rear axle of such horse drawn cab, on which shall be clearly set forth the license number of such sightseeing bus or horse drawn cab. The license plate issued to the licensee may, in the discretion of the commissioner, be a plate of a permanent nature with a replaceable date tag attached thereto, indicating the expiration date of the plate during each license year and the issuance of such a plate with such date tag to a person possessing such a plate, shall be deemed issuance of a license plate. Such license plate and the replaceable date tag to be issued from year to year to be attached thereto, shall be of such material, form, design and dimension and set forth such distinguishing number or other identification marks as the commissioner shall prescribe. The commissioner upon renewal of the license hereunder, may continue the use of the license plate for as many additional license years as he or she in his or her discretion may determine, in which event he or she shall issue and deliver to the licensee a replaceable date tag as evidence of renewal of the license, which shall be attached or affixed in such manner as he or she may prescribe by rule. The failure to affix or display such date tag in a manner prescribed by the commissioner shall constitute a violation of this section. In the event of the loss, mutilation or destruction of any license plate or date tag issued hereunder, the owner may file such statement and proof of facts as the commissioner shall require, with a fee of twenty-five dollars, at the department, and the department shall issue a duplicate or substitute license plate or date tag.

HISTORICAL NOTE

Section amended L.L. 2/1994 § 10, retro. to Jan. 1, 1994.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-326.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

Amended LL 48/1966 § 1

Amended LL 30/1983 § 12

CASE NOTES

¶ 1. The statutory requirement that a license plate is to "securely affixed to a conspicuous and indispensable part of such...horse drawn cab, on which shall be clearly set forth the license number...," is not unconstitutionally vague. New York Horse & Carriage Assn. v. City of New York Dept. of Consumer Affairs, 144 Misc.2d. 883, 545 N.Y.S.2d 439 (Sup. Ct. New York Co. 1989).

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-376

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-376 Inspection of sight-seeing buses.

a. A vehicle shall be licensed as a sight-seeing bus only after it shall have been examined and inspected to determine that it complies with this section, and that it also (1) complies with all the requirements of the vehicle and traffic law of the state of New York, and (2) is certified by the department of transportation of the state, as being safe and properly equipped to operate.

b. (1) On and after the effective date of the local law which added this amendment, the commissioner shall not issue a sight-seeing bus license to any vehicle that when originally manufactured was not equipped with an engine covered by a certificate of conformity unless an engine covered by a certificate of conformity for the model year applicable to the date on which a sight-seeing bus license application for such bus is submitted to the commissioner, has been installed in such vehicle.

(2) The commissioner shall not renew the license of any sight-seeing bus that was licensed as of the date of the introduction of the local law which added this amendment and that when originally manufactured, was not equipped with an engine covered by a certificate of conformity unless an engine covered by a certificate of conformity for a model year no earlier than the model year applicable to the date on which the local law which added this amendment was introduced, has been installed in such bus.

(3) The commissioner shall not renew the license of any sight-seeing bus that was first issued a sight-seeing bus

license on or after the date of introduction of the local law that added this amendment and before the effective date of such law and that, when originally manufactured, was not equipped with an engine covered by a certificate of conformity, unless an engine covered by a certificate of conformity for a model year no earlier than the model year applicable to the date on which the first sight-seeing bus license renewal application for such bus is submitted to the commissioner, has been installed in such bus.

c. The commissioner shall refuse a license to any sight-seeing bus not in "compliance with the requirements of this section, any rules promulgated thereunder or with any other laws or rules governing sight-seeing buses, or which is otherwise found to be unfit for operation. Grounds for refusal to issue a license shall include, but not be limited to, installation of an engine which does not meet the requirements of subdivision b of this section, failure to submit a bus or records pertaining to the operation and maintenance of such bus for inspection, installation of an engine not covered by a certificate of conformity in a vehicle which was originally manufactured with such an engine, installation of an engine of any model year preceding the year of manufacture in a vehicle which was originally manufactured with an engine covered by a certificate of conformity and being found to have violated the requirements for diesel fuel-powered sight-seeing buses contained in section 24-163.6 of the administrative code.

d. The commissioner may adopt rules (1) requiring the inspection by the department of sight-seeing buses and/or records pertaining to the operation and maintenance of such buses to determine compliance with the requirements of subdivision b of this section and section 24-163.6 of the administrative code; (2) delegating the performance of such inspections to the department of environmental protection; and (3) authorizing the acceptance of the results of inspections consistent with paragraph one of this subdivision conducted by a state or federal agency authorized to conduct such inspections on such buses.

HISTORICAL NOTE

Section amended L.L. 3/2001 § 2, eff. Jan. 19, 2001.

Section added chap 907/1985 § 1

Subds. c, d amended L.L. 41/2005 § 3, eff. Nov. 9, 2005. [See

§ 24-163.6 Note 1]

DERIVATION

Formerly § B32-327.0 added LL 10/1964 § 27

Omitted in amendment by LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-377

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-377 Inspection of horse-drawn cab.

A vehicle shall be licensed as a horse-drawn cab only after it shall have been examined and inspected. The commissioner shall refuse a license to, or if already issued, suspend the license of any horse-drawn cab found to be unfit for operation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-327.1 added LL 56/1965 § 26

CASE NOTES

¶ 1. The fact that the City conducted inspections of horse drawn cabs without prior warning did not constitute a violation of the Fourth Amendment prohibition against unreasonable searches. Unannounced inspections were needed for effective enforcement of the law. New York Horse & Carriage Assn. v. City of New York Dept. of Consumer Affairs, 144 Misc.2d 883, 545 N.Y.S.2d 439 (Sup. Ct. New York Co. 1989).

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-377.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-377.1 Insurance.

a. As a condition of the issuance of a license to operate a horse drawn cab, each applicant shall furnish proof that such horse drawn cab is insured under a liability insurance policy with respect to such horse drawn cab for personal injury or death and for injury to or destruction of property of one or more persons resulting from any one accident of not less than the minimum dollar amount of liability insurance coverage required by vehicle and traffic law to be maintained by owners of vehicles engaged in the business of carrying or transporting passengers for hire.

b. The licensee shall notify the commissioner of any modification, amendment, cancellation or substitution of any insurance policy required under subdivision a of this section within ten days of notice to the licensee of such modification, amendment, cancellation or substitution.

HISTORICAL NOTE

Section repealed & added L.L. 2/1994 § 11, retro. to Jan. 1, 1994.

Section added L.L. 89/1989 § 3.

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-378

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-378 Periodic inspection.

The license department shall cause all sight-seeing buses and horse-drawn cabs now, or hereafter licensed, to be inspected at least once every four months. The date of such inspection and the signature of the person making the inspection shall be recorded upon the inspection card in the spaces provided therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-328.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

CASE NOTES

¶ 1. Unannounced and spot searches and inspections are "necessary to further [the] regulatory scheme". § 20-378 requiring regular inspections "at least once every four months" meets the constitutional requirements as to notice and scope. NY Horse & Carriage Assoc. v. NYC Consumer Affairs Dep't, 144 Misc 2d 883 [1989].

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-379

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-379 Form of inspection card.

The commissioner shall prescribe an appropriate form of inspection card for sight-seeing buses and horse-drawn cabs and the manner in which such card and the sight-seeing bus driver's and horse-drawn cab driver's identification cards shall be displayed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-329.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-380

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-380 Rates of horse drawn cabs.

The amount to be charged and collected for the use of a horse drawn cab by one or more passengers shall be the total of the following items: thirty-four dollars for the first half-hour or fraction, the fraction of the half hour*96 shall be at the passenger's option, and ten dollars for each additional fifteen minutes thereafter.

HISTORICAL NOTE

Section repealed & added L.L. 2/1994 § 12, retro. to Jan. 1, 1994.

Section amended L.L. 89/1989 § 9

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-329.1 added LL 56/1965 § 26

Amended LL 18/1973 § 1

Amended LL 59/1981 § 1

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

96

[Footnote 96]: * So in original. ("half hour" s.b. "half-hour")

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-381

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-381 Horse drawn cab driver's license.

a. It shall be unlawful for any person to operate a horse drawn cab within the city without having a valid horse drawn cab driver's license from the commissioner.

b. The biennial fee for each such horse drawn cab driver's license shall be thirty dollars.

c. The commissioner shall investigate each applicant as to character and fitness before such license shall be issued.

d. A horse drawn cab driver's license shall not be issued or renewed unless the applicant therefor has submitted to the commissioner a certificate issued by the commissioner of health pursuant to section 17-334.1 of the code.

e. It shall be unlawful for any owner of a horse drawn cab to permit such horse drawn cab to be operated by a person who does not possess a current valid driver's license issued pursuant to this section. In any prosecution of an owner for a violation of this section, it shall not be necessary to prove that the owner knew or should have known that the driver was unlicensed, and there shall be a rebuttable presumption that such cab was operated with the permission of the owner.

HISTORICAL NOTE

Section amended L.L. 31/1995 § 3, eff. Apr. 21, 1995.

Section repealed & added L.L. 2/1994 § 13, retro. to Jan. 1, 1994.

Section added chap 907/1985 § 1

Subd. b amended L.L. 51/1991 § 5, eff. July 17, 1991.

Subds. e, f added L.L. 89/1989 § 10

DERIVATION

Formerly § B32-330.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

Sub b amended LL 30/1983 § 13

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-381.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-381.1 Area and time restrictions on the operation of horse drawn cabs.

a. It shall be unlawful for a driver of a horse drawn cab to operate such cab at any time when and where such operation is prohibited.

b. (1) Horse drawn cabs shall not be driven or operated in the borough of Manhattan between the hours of 7:00 a.m. and 10:00 a.m. on Monday through Friday. Horse drawn cabs shall not be driven or operated in the borough of Manhattan between the hours of 10:00 a.m. and 9:00 p.m. on Monday through Friday except for that area inside or immediately adjacent to Central Park.

(2) Between the hours of 9:00 p.m. and 11:30 p.m. on Monday through Friday, between the hours of 12:30 p.m. and 11:30 p.m. on Saturday, and between the hours of 1:30 p.m. and 7:00 p.m. on Sunday, horse drawn cabs shall not be driven or operated in the borough of Manhattan in the areas bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Seventh Avenue, on the south by West Forty-second Street and on the west by Ninth Avenue; and on the north by West Sixty-fifth Street, on the east by Columbus Avenue, on the south by West Fifty-seventh Street and on the west by Amsterdam Avenue.

(3) On Saturday between the hours of 10:00 a.m. and 8:00 p.m. throughout the year and on Sunday between the hours of 10:00 a.m. and 7:00 p.m. during the period commencing with the Sunday preceding Thanksgiving until the sixth day of January immediately thereafter, horse drawn cabs shall not be driven or operated in the borough of

Manhattan in the area bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Fifth Avenue, on the south by West Forty-second Street and on the west by Avenue of the Americas.

(4) On New Year's Day, Thanksgiving Day and Christmas Day, the restrictions set forth in paragraphs one, two and three of this subdivision shall not apply. On the aforementioned days between the hours of 10:00 a.m. and 11:30 p.m., horse drawn cabs shall not be driven or operated in the borough of Manhattan in the areas bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Seventh Avenue, on the south by West Forty-second Street and on the west by Ninth Avenue; and on the north by West Sixty-fifth Street, on the east by Columbus Avenue, on the south by West Fifty-seventh Street and on the west by Amsterdam Avenue.

(5) At no time shall any horse drawn cab be driven or operated on or in any bridge or tunnel within the city of New York.

c. The prohibitions contained in this section shall not be construed to apply to horse drawn cabs which are being driven, without passengers, on a direct route to or from the location at which the horse is sheltered, provided that they are so driven no more than one-half hour prior to the end of any time restriction or one-half hour after the beginning of any time restriction. The driver may be accompanied at such times only by the owner or operator of a horse drawn cab, a stable owner, the driver of a horse drawn cab and driver-trainee, or an employee of an owner or operator of a horse drawn cab or stable owner.

d. Where exigent circumstances exist and a police officer or other authorized officer or employee of the department, the department of transportation, or the department of parks and recreation gives notice to the driver of a horse drawn cab to refrain from operating such cab in a specific location at a specific time, such driver shall not operate such cab at such location at such time. For purposes of this subdivision, exigent circumstances shall include, but shall not be limited to, unusually heavy pedestrian or vehicular traffic, the existence of any obstructions in the public space at or near such location, an accident, fire or other emergency situation, or a parade, demonstration or other similar event or occurrence at or near such location.

e. This section shall be enforced by the department and the department of transportation, with the cooperation of the department of parks and recreation, the police department, the department of health and mental hygiene and the American Society for the Prevention of Cruelty to Animals.

f. This section shall not be construed to permit the operation, parking, stopping or standing of any horse drawn cab in any area at any time where or when such operation, parking, stopping or standing is prohibited by any other law or rule.

HISTORICAL NOTE

Section repealed & added L.L. 2/1994 § 14, retro. to Jan. 1, 1994.

Section added L.L. 89/1989 § 6.

Subd. e amended L.L. 22/2002 § 43, eff. July 29, 2002 and deemed in

effect as of July 1, 2002.

NOTE

Provisions of L.L. 89/1989.

Section one. Legislative Findings. The horse drawn carriage has been a constant feature of New York City's past and continues to be an integral part of the tourist industry. The horse drawn carriage ride offers New Yorkers and tourists alike a unique transportation experience. The continued regulation of the horse drawn carriage industry is

necessary to protect the public from the traffic hazards caused by horse drawn carriages. The operation of horse drawn carriages by drivers and owners who have not demonstrated a basic knowledge of the proper care, handling and maintenance of the horse and of the laws and regulations relating to the operation of horse drawn carriages increases the risk that horses will be overworked and treated inhumanely. The presence of horse drawn carriages in areas where there is traffic congestion jeopardizes the safety of the horses and increases the possibility of accidents. It is therefore reasonable and necessary to impose additional regulations on the operation of horse drawn carriages to insure the proper care and handling of the horses and to further safeguard the horses and the public from the hazards of traffic. Additionally, effective and meaningful enforcement of certain regulations requires that owners of horse drawn carriages be legally liable for certain conduct of drivers of horse drawn carriages. Therefore, the Council finds that in order to minimize traffic congestion and to assure the health and safety of motorists and pedestrians, this local law is necessary.

§ 11. Severability. If any clause, sentence, subdivision, paragraph, section or part of this local law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

§ 12. This local law shall take effect immediately, except that section eight hereof shall take effect ninety days after enactment, and this local law shall expire four years from the date of enactment.

The City of New York, Office of the City Clerk, s.s.:

I hereby certify the foregoing is a true copy of local law of The City of New York passed by the Council on September 7, 1989, disapproved by the Mayor on October 6, 1989 and repassed by two-third of the Councilmembers on November 21, 1989 and said law is adopted notwithstanding the objections of the Mayor.

CARLOS CUEVAS, City Clerk, Clerk of the Council

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-382

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-382 Unlawful agreements by owners or horse drawn cab drivers.

It shall be unlawful for any owner or any horse drawn cab driver to have or make any contract or agreement with any owner of any hotel, apartment house, restaurant or cafe or with the agent or employee of such places, by which such owner or such horse drawn cab driver shall agree to solicit the patronage of any passenger for any such hotel, apartment house, restaurant or cafe.

HISTORICAL NOTE

Section amended L.L. 31/1995 § 4, eff. Apr. 21, 1995.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-331.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-383

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-383 Suspensions and revocations.

a. After notice and opportunity to be heard, the commissioner may suspend or revoke any sight-seeing bus license where the holder has failed to comply with any provisions of this subchapter or of the rules promulgated thereunder, or with any other laws or rules governing sight-seeing buses, or which sight-seeing bus is otherwise found to be unfit for operation. Such suspension shall remain in effect until compliance and fitness have been established by the licensee and accepted by the department. Grounds for suspension or revocation shall include, but not be limited to, installation of an engine which does not meet the requirements of subdivision b of section 20-376 of this subchapter, being found to have violated the requirements for diesel fuel-powered sight-seeing buses contained in section 24-163.6 of the administrative code, failure to submit a bus for inspection, installation of an engine not covered by a certificate of conformity in a vehicle which was originally manufactured with such an engine and installation of an engine of any model year preceding the year of manufacture in a vehicle which was originally manufactured with an engine covered by a certificate of conformity.

b. Any driver of a horse drawn cab found to have committed within any twelve-month period, in the aggregate, at least three violations of this subchapter shall have his or her license suspended by the commissioner for a period of not less than three months. For purposes of this subdivision, all violations written on any one day shall constitute a single violation.

c. Notwithstanding the provisions of subdivision b of this section, any driver of a horse drawn cab found to have

committed within any twenty-four month period, in the aggregate, at least five violations of this subchapter shall have his or her license suspended by the commissioner for six months. For purposes of this subdivision, all violations written on any one day shall constitute a single violation.

d. Notwithstanding the provisions of subdivisions b and c of this section, any driver of a horse drawn cab found guilty of one violation of subdivision d of section 20-381.1 of the code or sections three hundred fifty-one, three hundred fifty-three, three hundred fifty-five through three hundred sixty-two or three hundred sixty-nine of the New York state agriculture and markets law or who is found guilty of a violation of this subchapter while his or her license is suspended, shall have his or*97 her license revoked. A driver whose license has been revoked in accordance with this provision may not apply for a new license for five years from the date of revocation.

HISTORICAL NOTE

Section amended L.L. 2/1994 § 15, retro. to Jan. 1, 1994.

Section added chap 907/1985 § 1

Subd. a amended L.L. 41/2005 § 4, eff. Nov. 9, 2005. [See § 24-163.6

Note 1]

Subd. a amended L.L. 3/2001 § 3, eff. Jan. 19, 2001.

Subd. a amended L.L. 31/1995 § 5, eff. Apr. 21, 1995.

DERIVATION

Formerly § B32-332.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

97

[Footnote 97]: * "his or" added by the Legislative Bill Drafting Commission.

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NYC Administrative Code 20-384

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 21 SIGHT-SEEING BUSES, HORSE-DRAWN CABS AND DRIVERS*95

§ 20-384 Regulations.

The commissioner may make and promulgate such rules and regulations and prescribe such forms as are necessary to carry out the provisions of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-333.0 added LL 10/1964 § 27

Amended LL 56/1965 § 26

Sub b repealed LL 20/1973 § 2

FOOTNOTES

95

[Footnote 95]: * Subchapter amended L.L. 56/1965 § 26 which also added some special provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-385

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-385 Legislative declaration.

It is the purpose of the city council in enacting this subchapter to safeguard and protect the homeowner against abuses and fraudulent practices by licensing persons engaged in the home improvement, remodeling and repair business.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-350.0 added LL 21/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where defendant contracted with plaintiff's architect to make structural repairs on plaintiff's cooperative apartment, and plaintiff sued defendant for breach of contract and defendant counterclaimed for the balance due on the contract and for the reasonable value of extra work and services performed for plaintiff, the counterclaim would be dismissed where defendant did not possess license required under this section, since this section applies to a subcontractor.-Zimmett v. Professional Acoustics, Ltd., 103 Misc. 2d 971, 431 N.Y.S. 2d 243 [1980].

¶ 2. A licensed sales finance company which purchased a retail installment obligation secured by a mortgage arising out of home improvement work performed in New York City by an unlicensed home improvement contractor can not recover against the home owner.-Dartmouth Plan, Inc. v. Valle, 117 Misc. 2d 534 [1983].

CASE NOTES

¶ 1. Where an unlicensed contractor demands arbitration pursuant to the terms of a home improvement contract, the court has the power to stay arbitration. The issue of compliance with the home improvement license statute is for the court rather than for the arbitrator. Matter of Heller (Clark Construction Corp.), 178 A.D.2d 195, 577 N.Y.S.2d 263 (1st Dept. 1991).

¶ 2. Blake Electric Contracting Co., Inc. v. Paschall, 635 N.Y.S.2d 205 (App.Div. 1st Dept. 1995). The owners engaged a contractor to combine two cooperative apartments into one apartment. The court held that a subcontractor who did not have a license was unable to recover against the owners for this work, either under the contract or in quantum meruit. The purpose of the license law was to safeguard and protect the homeowner against abuses and fraudulent practices. Moreover, a contractor would be barred from enforcing the contract if the license was not issued until after the work was completed.

¶ 3. An unlicensed "construction manager" cannot recover on a home improvement contract. Even though the contractor claimed to have merely coordinated and supervised the work done by other contractors, its activities were still within the purview of the statute. The plaintiff also unsuccessfully contended that the defendant did not reside in the apartment and therefore was not covered by the statute. Although the defendant spent more than half her time abroad, this was her only New York residence and she had not subleased the apartment to anyone else. Thus, defendant could be said to have had a proprietary interest in the apartment and therefore was covered by the statute. The court distinguished the case from Ayres v. Dunhill Interiors, Ltd. 138 A.D.2d 303, 526 N.Y.S.2d 440 (1st Dept. 1988).

¶ 4. A building contract called for a rooftop addition and alteration, which included linking an existing apartment with a renovated tank room on the roof by a new stairway, and the addition of a greenhouse next to the tank room. The court held that this was not a contract for a new building but was considered a "home improvement." Thus, a contractor who did not have the necessary home improvement license could not recover on the contract. Chosen Construction Corp. v. Sun System Prefabricated Solar Greenhouses, Inc., 138A.D.2d 284, 525 N.Y.S.2d 848 (1st Dept. 1988).

¶ 5. In one case, a cooperative shareholder contracted for the performance of work to the apartment. When the contractor demanded payment, the shareholder raised as a defense the fact that the contractor was not licensed. The contractor alleged that the licensing statute did not apply because the building contained more than four units. The court, however, held that where a shareholder contracts for work to be performed in an apartment, the licensing law applies regardless of the number of units in the cooperative building. Anchor Construction, Inc. v. Katz, N.Y.L.J., Apr. 21, 1998, page 26, col. 2 (Sup.Ct. New York Co.).

¶ 6. An entity which claims that its role on a home improvement project was solely to supervise, coordinate and monitor the project was nevertheless required to possess a home improvement contractor license. Since an unlicensed home improvement contractor is unable to enforce a home improvement contract, an owner is entitled to stay of arbitration in a breach of contract arbitration proceeding brought by the contractor. JMT Brothers Realty, LLC v. First Realty Builders, 51 AD3d 453, 856 NYS2d 616 (App. Div. 1st Dept.).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-386

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-386 Definitions.

1. "Persons" means an individual, firm, company, salesperson, partnership or corporation, trade group or association.

2. "Home improvement" means the construction, repair, replacement, remodeling, alteration, conversion, rehabilitation, renovation, modernization, improvement, or addition to any land or building, or that portion thereof which is used or designed to be used as a residence or dwelling place and shall include but not be limited to the construction, erection, replacement, or improvement of driveways, swimming pools, terraces, patios, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements to structures or upon land which is adjacent to a dwelling house. "Home improvement" shall not include (i) the construction of a new home or building or work done by a contractor in compliance with a guarantee of completion of a new building project, (ii) the sale of goods or materials by a seller who neither arranges to perform nor performs directly or indirectly any work or labor in connection with the installation of or application of the goods or materials, (iii) residences owned by or controlled by the state or any municipal subdivision thereof, or (iv) painting or decorating of a building, residence, home or apartment, when not incidental or related to home improvement work as herein defined. Without regard to the extent of affixation, "home improvement" shall also include the installation of central heating or air conditioning systems, central vacuum cleaning systems, storm windows, awnings or communication systems.

3. "Building" means any structure containing no more than four residences or dwelling units.

4. "Owner" means any homeowner, cooperative shareholder, condominium unit owner, tenant, or any other person who orders, contracts for or purchases the home improvement services of a contractor or the person entitled to the performance of the work of a contractor pursuant to a home improvement contract.

5. "Contractor" means any person or salesperson, other than a bona fide employee of the owner, who owns, operates, maintains, conducts, controls or transacts a home improvement business and who undertakes or offers to undertake or agrees to perform any home improvement or solicits any contract therefor, whether or not such person is licensed or subject to the licensing requirements of this subchapter, and whether or not such person is a prime contractor or subcontractor with respect to the owner.

6. "Home improvement contract" means an agreement, whether oral or written, or contained in one or more documents, between a contractor and an owner , or contractor and a tenant, regardless of the number of residences or dwelling units contained in the building in which the tenant resides, provided said work is to be performed in, to or upon the residence or dwelling unit of such tenant, for the performance of a home improvement and includes all labor, services and materials to be furnished and performed thereunder.

7. "Licensee" means a person permitted to engage in the home improvement business under the provisions of this subchapter.

8. "Home improvement establishment" means any shop, establishment, place or premises where the home improvement business is transacted or carried on.

9. "Salesperson" means any individual who negotiates or offers to negotiate a home improvement contract with an owner, or solicits or otherwise endeavors to procure in person a home improvement contract from an owner on behalf of a contractor, or for himself or herself should the salesperson be also the contractor, whether or not such person is licensed or subject to the licensing requirements of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 2 amended L.L. 23/1996 § 1, eff. Feb. 26, 1996

Subd. 4 amended L.L. 24/1996 § 1, eff. June 25, 1996

DERIVATION

Formerly § B32-351.0 added LL 21/1968 § 1

CASE NOTES

¶ 1. Home improvement contract between contractor and owner of cooperative apartment was unenforceable when contractor was unlicensed at time of making the contract and contract could not be enforced in arbitration.-Anton Sattler, Inc. v. Cummings, 103 Misc. 2d 4 [1980].

¶ 2. Although this section does not in express terms cover the owner of a cooperative apartment such a person is deemed a tenant for the purposes of the statute.-Id.

¶ 3. Since the work done by plaintiff fell within the scope of this section, and because of the legislative intent to protect against fraudulent practices in the home improvement business, plaintiff's lack of a license barred recovery on the agreements.-Mortise v. 55 Liberty Owners Corp., 102 A.D. 2d, 719, aff'd 63 N.Y. 2d 743, [1984].

¶ 4. The language of the statute must be strictly construed and since a large portion of the work fell within the

definition of "home improvement" and not just interior decorating and even though defendants knew when contracting with plaintiff that plaintiff was not licensed, plaintiff is not entitled to any recovery.-Aragona Designs, Inc. v. Cuevas, 193 (11) N.Y.L.J. (1-16-85), Col. 5 B.

¶ 5. Ayres sought to break a home improvement contract with Dunhill Interiors because of shoddy workmanship and the fact that Dunhill was not licensed with city. However, no license is required for building with more than four units and work is not for tenant's residence, § 20-386. Phone book had Ayres living elsewhere. Matter remanded to determine proper residence. Ayres v. Dunhill Interiors, 138 A.D. 2d 303 [1988].

¶ 6. In an action where consumer refused to pay the balance due under a home improvement contract, the contractor who was not licensed, pursuant to Ad Code § 20-386, when the agreement was signed nor when the work was performed (Ad Code § 20-387), was not allowed to amend the complaint to allege the particulars of an after-acquired license because this fact can not be used to validate a contract that was prohibited when performed. B & F Building Corp. v. Liebig, 76 N.Y. 2d 689.

¶ 7. Provisions of the Administrative Code governing licensing of home improvement contractors, §20-385 et seq, do not apply to an agreement between two nonresident contractors for subcontracted work. Contractual agreement between contractors does not constitute a home improvement contract, §20-386(6) within the meaning of the administrative code. Corcoran Marble v. Clark Corp, 155 Misc. 2d 49, 597 N.Y.S.2d 259 [1993].

¶ 8. Blake Electric Contracting Co., Inc. v. Paschall, 635 N.Y.S.2d 205, 222 A.D.2d 264 (App.Div. 1st Dept. 1995). The combining of two cooperative apartments into one constitutes a home improvement within the meaning of the licensing statute. A subcontractor here unsuccessfully argued that the work fell under a "new home" exception to the statute. Despite the extensive work involved, the work nevertheless constituted the renovation of an existing home, not the erection of a new one.

¶ 9. A cooperative housing corporation, which contracts for repairs for a swimming pool, is not a "homeowner" entitled to statutory protection against unlicensed contractors. The court noted that the pool had a commercial aspect to it, since membership fees were charged to both dwelling unit owners and members of the public who sought to use the pool. Todd Harris Co., Inc. v. 601 Kappock Owners Corp., 567 N.Y.S.2d 342, 149 Misc.2d 649 (Civ.Ct. Bronx Co. 1991).

¶ 10. See Routier v. Waldeck, 184 Misc.2d 487, 708 N.Y.S.2d 270 (Dist.Ct. Nassau Co. 2000), discussed under § 26-387.

¶ 11. See Ellenhorn v. Campanella Construction Co., N.Y.L.J., Sept. 6, 2000, page 22, col. 3 (Sup.Ct. New York Co.), reported under § 20-387.

¶ 12. The failure of a contractor to have a home improvement license precludes the contractor from enforcing the contract, even if part of the property is residential and part is leased to a commercial tenant. The court rejected the contractor's argument that the law did not apply at all where any portion of the premises was commercial. The contractor than argued that the commercial portion of the work should be severed from the residential portion, so that the commercial portion of the contract could be enforced separately, but the court said that this was not permitted under the law. Smith v Waner, N.Y.L.J., Oct. 23, 2003, at 18, col. 1 (Sup.Ct. New York Co.).

¶ 13. The installation of room air conditioners is not in itself a home improvement for purposes of the statute. Power Cooling, Inc. v. Wassong, 5 Misc.3d 22, 783 N.Y.S.2d 741 (1st Dept. 2004).

¶ 14. Where the premises are part residential and part commercial, a home improvement contractor must be licensed, or will be subject to the forfeiture provisions of the statute. Young's L & M Construction, Inc. v. Kelley, 13 Misc.3d 307, 822 N.Y.S.2d 409 (Sup.Ct. New York Co. 2006).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-387

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-387 License required.

(a) No person shall solicit, canvass, sell, perform or obtain a home improvement contract as a contractor or salesperson from an owner without a license therefor.

(b) A license issued pursuant to this subchapter may not be construed to authorize the licensee to perform any particular type of work or engage in any kind of business which is reserved to qualified licensees under separate provisions of state or local law, nor shall any license or authority other than that which is issued or permitted pursuant to this subchapter authorize engaging in the home improvement business.

HISTORICAL NOTE

Section added chap 907/1985 § 1

See Note after § 20-107

DERIVATION

Formerly § B32-352.0 added LL 21/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where owner of property hired an appraisal corporation to submit a report on damages to a fire insurance company and to repair the building and corporation had not been licensed it could not recover the contract price for the work done but could recover in quantum meruit for the services rendered and materials supplied.-Lindner Appraisal Corp. v. H. Mabel Freuisl Corp., 72 Misc. 2d 1041, 340 N.Y.S. 2d 242 [1973].

¶ 2. Where plaintiff was not licensed by this section he could not recover for work, labor and services performed under a home improvement contract.-Vegliack v. Mazzella, 73 Misc. 2d 90, 341 N.Y.S. 2d 564 [1973].

¶ 3. Plaintiff who failed to obtain a license to engage in the home improvement, remodeling and repair business could not obtain a judgment on his claim for labor and materials supplied in connection with a renovation either in contract or quantum meruit.-Buffoleno v. Denning, 82 Misc. 2d 472, 369 N.Y.S. 2d 600 [1975].

¶ 4. Where a contractor cannot prove that he was licensed the contract for home improvements will not be enforced and his recovery is "limited to the lesser of plaintiff's costs of performance, its reasonable value or the contract price so that no profit may be derived from the statute."-Gargano v. Smith, 97 Misc. 2d 555 [1978].

¶ 5. Plaintiff was not a licensed home improvement contractor, performed work and filed mechanic lien. Complaint should be dismissed since lack of license bars recovery in either contract or quantum meruit, even though defendant owner knew that plaintiff was unlicensed when contract was made and planned to take advantage of its absence.-Sidney Millington v. John D. Rapoport, 98 A.D. 2d 765, [1983].

¶ 6. A plumber's license does not permit the holder to do the work of a home improvement contractor without a license for that trade and thus plaintiff is not entitled to any payment for renovations.-All City Plumbing and Contracting Corp. v. Glaser, 193 (98) N.Y.L.J. (5-22-85) 7, Col. 3B.

CASE NOTES

¶ 1. Defendants contracted to build a rooftop extension of their apartment including a greenhouse. The alterations did qualify as a "home improvement" pursuant to § 20-386(2). Defendant refused to pay when work was not completed on contract date. Further, the contractors were not licensed pursuant to § 20-387. Recovery by contractors is barred regardless that they possessed a valid building permit or whether the work done was satisfactory or whether homeowner's knew and took advantage of non-licensure. Chosen Construction Corp. v. Syz, 138 AD2d 284 [1988].

¶ 2. Strict compliance with licensing requirement, § 20-387, is mandatory. Where the contractor was not licensed when the work was done, it cannot recover, even if it subsequently obtained renewal of its license. Hanjo v. Wick, 155 AD2d 304 [1989].

¶ 3. Plaintiff's oral contract to provide labor and materials provided for defendant's cooperative apartment was void and unenforceable due to plaintiff's admitted failure to obtain a home improvement license as required by Ad Code § 20-387(a), even if the work was performed satisfactorily or the failure to obtain the license was willful. Papadopulos v. Santini, 159 AD2d 335.

¶ 4. An unlicensed home improvement contractor sought arbitration of a contract it had entered into. It is clear in §20-387(a) that "no person shall . . . perform or obtain a home improvement contract . . . without a license therefor." The act of obtaining a license is not ministerial or a mere technicality. Court affirms stay of arbitration. Heller v. Clark Constr. Corp., 178 AD2d 195, 178 A.D.2d 195, 577 N.Y.S.2d 263 [1991].

¶ 5. Mechanic's liens were discharged because renovation contract which was entered into between defendant and proprietary lessee was unenforceable because defendant did not possess home improvement license required by Ad Code §20-387. East 70th St. Corp. v. Argus Constr. Corp., 193 AD2d 563, 598 N.Y.S.2d 209 [1993].

¶ 6. Plaintiff, which was not a licensed home improvement contractor, performed repairs on fire damaged house.

When payment was not forthcoming a mechanic's lien was filed. The purpose of the regulatory scheme in Ad Code §§20-385 and 20-387 is to protect landowners against abuse and fraud. It is well settled that a lack of license bars recovery in either contract or quantum meruit. Lien dismissed. Hughes Contr. Corp. v. Coughlan, 202 AD2d 476, 609 N.Y.S.2d 43 [1994].

¶ 7. Where a renovation contract was unenforceable against the proprietary lessee of a cooperative apartment because the contractor did not have a home improvement license, the contract could not be enforced against the cooperative corporation, with whom the construction company had no contractual relationship. East 70th Street Corp. v. Argus Construction Corp., 193 A.D.2d 563, 598 N.Y.S.2d 209 (1st Dept. 1993).

¶ 8. A subcontractor is not deemed an "owner" under protections of the statute. Therefore, where a subcontractor sues a contractor for breach of contract, the contractor cannot invoke the forfeiture provisions of the license law. Jack A. Corcoran Marble Co. v. Clark Construction Corp., 155 Misc.2d 49, 597 N.Y.S.2d 259 (Sup.Ct. New York Co. 1993).

¶ 9. In order to seek enforcement of the contract, the contractor must have a valid license at the time of commencement of the litigation and a valid license at the time of execution of the contract and performance of the work. B & F Building Corp. v. Liebig, 155 A.D.2d 377, 548 N.Y.S.2d 880 (1989), aff'd 76 N.Y.2d 689, 563 N.Y.S.2d 40 (1990).

¶ 10. CPLR 3015(e) allows a contractor who does not possess the required license at the commencement of the action to amend the complaint to allege that he thereafter acquired a license. However, this section will not permit a contractor to recover where he was not licensed at the time of execution of the contract or the work was performed. In other words, the CPLR provision will help only those contractors who had valid licenses when the work was performed but whose licenses lapsed thereafter. B & F Building Corp. v. Liebig, 76 N.Y.2d 689, 563 N.Y.S.2d 40 (1990).

¶ 11. The licensing law applies to a apartment improvement contract made by an individual cooperative shareholder, even though the building contains more than four residences. Matilda Construction, Inc. v. 420 East 72nd Street Tenants Corp., 259 A.D.2d 374, 687 N.Y.S.2d 120 (App.Div. 1st Dept. 1999).

¶ 12. Where a prime contractor does not have the required license, a subcontractor cannot maintain a mechanic's lien against the premises even though the subcontractor does have a license. Ratner v. Skyline Windows, 180 Misc.2d 480, 689 N.Y.S.2d 625 (Sup.Ct. New York Co. 1999); Moonstar Contractors, Inc. v. Katsir 2001 WL 1649230 (Civ.Ct. New York Co.).

¶ 13. In one case, the court had to determine who is an "owner," in terms of persons entitled to invoke the forfeiture provisions of Section 20-386 and 20-387. The court stated that the term "owner" includes people who reside in the building or who intend to reside in the building once the contractor's work is completed, but does not include real estate investors who do not intend to reside in the building. Routier v. Waldeck, 184 Misc.2d 487, 708 N.Y.S.2d 270 (Dist.Ct. Nassau Co. 2000).

¶ 14. The protections against unlicenced contractors extend not only to cooperative shareholders but also to condominium unit owners. The contractor sought to bring the case within the statutory exemption governing renovation work on buildings having more than four units (the condominium had about 100 units; see Admin. Code Sec. 20-386(3) regarding exemption). However, the court held that since Admin. Code Sec. 20-386(4) includes condominium unit owners within the definition of "owner," the exemption applies only if a unit owner owns four or more units, which was not the case here. Ellenhorn v. Campanella Construction Co., N.Y.L.J., Sept. 6, 2000, page 22, col. 3 (Sup.Ct. New York Co.).

¶ 15. Where a contractor has a valid home improvement contractors' license, the failure of the contracting corporation or the corporate principal to have a home improvement salespersons' license will not defeat recovery under the home improvement contract. Tri-State General Remodeling v. Baijnauth, 194 Misc.2d 135, 753 N.Y.S.2d 327 (Civ.Ct. Bronx Co. 2002).

¶ 16. The owner of a townhouse brought a petition to vacate an arbitration award requiring her to pay an architect a sum of money due on a contract to make and install a conservatory atop the owner's townhouse. Petitioner argued that the arbitrator had shown "manifest disregard" for the law. Manifest disregard occurs where a governing legal principle is well defined, explicit and clearly applicable to the case, and where the arbitrator ignored it after it was brought to the arbitrator's attention in a way that assures the arbitrator knew its controlling nature. Goldman v. Architectural Iron Co., 306 F.3d 1214 (2d Cir. 2002).

¶ 17. The installation of audio and video systems in an apartment did not constitute a home improvement within the meaning of the statute. Innovative Audio Video v. Freedman, 7 Misc.3d 383, 789 N.Y.S.2d 417 (Sup.Ct. New York Co. 2005).

¶ 18. A "home improvement" contract involves a residence. It does not have to be the primary residence of the owner. Isogon Interim, Inc. v. Crnkovic, N.Y.L.J., Aug. 24, 2005, at 18, col. 1 (Sup.Ct. New York Co.).

¶ 19. A corporate contractor does not satisfy the requirements of the law by being licensed in Westchester and having its principal licensed in New York City. Isogon Interim, Inc. v. Crnkovic, N.Y.L.J., Aug. 24, 2005, at 18, col. 1 (Sup.Ct. New York Co.).

¶ 20. In Intrepid Electrical Contractor, Inc. v. Serure, 34 A.D.3d 430, 824 N.Y.S.2d 351 (2d Dept. 2006), the court said that licensing statutes were strictly construed, so that, under Admin. Code. § 20-387, an unlicensed home improvement contractor could not recover for services rendered either on the contract or quantum meruit, pursuant to Admin. Code of § 20-387. However, under Admin. Code § 20-397(2), a duly licensed electrical contractor need not obtain a separate home improvement contractor's license if he or she performs work which is within the scope of his or her license. Where there is a triable issue as to whether the work actually constituted electrical work or work ancillary to electrical work, rather than a non-electrical related home improvement, a homeowner is not entitled to summary judgment dismissing the electrical contractor's suit on the contract.

¶ 21. Courts strictly construe the licensing requirements for home improvement contractors , and public policy prohibits an unlicensed contractor from recovering for breach of contract or in quantum meruit. However, whre the contract provides for arbitration, the homeowner who wishes to preserve the defense must move to stay arbitration. In one case, the owner failed to move for a stay and actively participated in the arbitration. Where the arbitrator issued an award in favor of the contractor and rejected the statutory defense, finding that the work was for commercial rather than residential purposes, the court declined to vacate the arbitration award. In re Metrobuild Assoc. Inc. v. Nahoum, 51 AD3d 555, 875 N.Y.S.2d 564, leave to appeal denied, 11 NY3d 704, 864 N.Y.S.2d 808 (2008).

¶ 22. In one case, plaintiffs retained a contractor to perform substantial renovations which included, among other things, plumbing and electrical work. After defendant walked off the job due to payment disputes, plaintiffs sued to recover amounts previously paid to defendant. It was alleged that plaintiffs had to retain a new contractor and that a significant amount of the installations done by defendant had to be removed and replaced. Defendant not only was an unlicensed home improvement contractor, in violation of Sec. 20-387, but it also unlawfully performed plumbing work and electrical work without supervision of a licensed master or special plumber's or electrician's license, respectively (Secs. 26-142 and 27-3017). Defendant contended that some of the work was properly performed and that even if there were violations of the licensing statutes, plaintiffs could not recover amounts previously paid to the defendant. The court, however, held that since it was undisputed that the amounts expended to replace the defective work exceeded the amount previously paid to the defendant, plaintiffs could recover the amounts paid to the defendant. Recovery for damages caused by an unlicensed contractor's defective work is within the protection afforded to consumers by the licensing laws. The vague nature of the testimony of the principal of the corporate defendant was an added reason to hold for the plaintiff. The defendant's corporation is a shell dominated by the individual principal; it had no identifiable assets; expenses were paid in cash and no payroll was maintained for the plaintiff's job and workers were not hired by the corporation but by an outside entity. Therefore, the court pierced the corporate veil and plaintiffs were able to recover against the individual shareholder. Maltese v. New England Contractors et al. 2007 NY Slip Op. 52259U, 17

Misc.3d 1134A, 851 NYS2d 70, 2007 NY Misc. Lexis 7839 (Sup.Ct. Kings Co.).

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Administrative Code of the City of New York

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NYC Administrative Code 20-388

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-388 Fees; term.

1. The fee for a license to conduct a home improvement business shall be fifty dollars and for each renewal thereof the fee shall be fifty dollars.

The fee for a salesperson's license employed by a home improvement contractor shall be twenty-five dollars and for each renewal thereof the fee shall be twenty-five dollars.

2. The fee for issuing a duplicate license or for one lost, destroyed or mutilated shall be ten dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-353.0 added LL 21/1968 § 1

Sub 3 repealed LL 74/1977 § 3

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-389

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-389 License not assignable; posting required; removal.

a. No license shall be assignable or transferable.

b. A license issued hereunder shall at all times be posted in a conspicuous place in the place of the licensee.

c. Every licensee shall within ten days after a change of control in ownership, or of management, or of change of address or trade name notify the commissioner of each change.

d. A duplicate license may be issued for one lost or mutilated and shall bear the word "duplicate" stamped across its face.

e. Commissioner's powers. In addition to the powers and duties elsewhere prescribed in this subchapter, the commissioner shall have power:

(1) To appoint an adequate number of assistants, inspectors and other employees as may be necessary to carry out the provisions of this subchapter, to prescribe their duties, and to fix their compensation within the amount appropriated therefor;

(2) To examine the qualifications and fitness of applicants for licenses under this subchapter;

(3) To keep record of all licenses issued, suspended or revoked; (4) At any time to require reasonable information of an applicant or licensee, and may require the production of books of accounts, financial statements, contracts or other records which relate to the home improvement activity, qualification or compliance with this subchapter by the licensee provided, however, that said information and production of records is required of him or her pursuant to its regular business and functions under this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-354.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-390

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-390 Application; fingerprinting.

1. An application for a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.

2. A separate license shall be required for each place of business.

3. The application shall be filed only by the actual owner of a business, shall be in writing, signed and under oath; it shall contain the office address of the business; the name and residence address of the owner or partner and if a corporation, trade group or association, the names and resident addresses of the directors and principal officers.

4. The commissioner may require the names and residence addresses of any employees of an applicant, in addition to any other information which he or she may deem advisable.

5. Each applicant shall be over eighteen years of age and of good character.

6. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the

officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

7. Each application for a license to solicit, canvass, sell, perform or obtain a home improvement contract as a contractor from an owner, or for renewal thereof, filed on or after the effective date of the local law which added this subdivision shall contain such information prescribed by the commissioner as sufficient to verify the applicant's compliance with the requirements specified in subdivision four of section seventy-one-a of the lien law.

HISTORICAL NOTE

Added chap 907/1985 § 1

Section heading amended L.L. 66/1989 § 11.

Subd. 6 added L.L. 66/1989 § 12.

Subd. 7 added L.L. 24/1996 § 2, eff. June 25, 1996.

DERIVATION

Formerly § B32-355.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-391

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-391 Rules and regulations.

The commissioner may make such rules and regulations not inconsistent with the provisions of this subchapter, as may be necessary with respect to the form and content of applications for licenses, the reception thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to his or her powers and duties as prescribed by this subchapter and for the proper administration and enforcement of the provisions of this subchapter, and to amend or repeal any such rules and regulations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-356.0 added LL 21/1968 § 1

CASE NOTES

¶ 1. A home improvement contract was completed, and the homeowner had accepted the benefits without objection. Five months later, the owner sought to cancel the contract due to the contractor's failure to provide a written home improvement contract. The court held that the statute did not give the owner the right to rescission of the contract

after it had been performed, where there was no claim that the owner was induced to cotract in reliance upon any fraudulent misrepresentations or other misconduct on the contractor's part. In other words, a licensed contractor can recover on a fully performed oral contract. Rasmus Construction Corp. v. Nagel, 646 N.Y.S.2d 926, 168 Misc.2d 520 (App.Term 1st Dept. 1996).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-392

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-392 Fines; issuance, renewal, suspension and revocation of license.

a. The commissioner shall have the power to impose a fine not to exceed one thousand dollars upon a licensee and/or suspend or revoke a license or deny an application for the issuance or renewal of a license for any one or more of the following causes:

1. Fraud, misrepresentation, or bribery in securing a license.

2. The making of any false statement as to a material matter in any application for a license.

3. The person or the management personnel of the contractor are untrustworthy or not of good character.

4. The business transactions of the contractor have been or are marked by a practice of failure to timely perform or complete its contracts, or the manipulation of assets or accounts, or by fraud or bad faith, or is marked by an unwholesome method or practice of solicitation of business from owners.

5. Failure to display the license as provided in this subchapter.

6. Failure to comply with any demand or requirement lawfully made by the commissioner.

7. When an agent or employee of a licensee has been guilty of an act of omission, fraud, or misrepresentation

and the licensee has approved or had knowledge thereof.

8. Violation of any provision of this subchapter or any rule or regulation adopted hereunder or for performing or attempting to perform any act prohibited by this subchapter.

9. Violation of any provision of subchapters one, two or three of title twenty-six or subchapter one of title twenty-seven of this code, or any rule adopted thereunder or for performing or attempting to perform any act prohibited by such subchapters, provided that the commissioner shall suspend or revoke the license of any licensee who continues to work in violation of a stop-work notice or order issued pursuant to section 26-118 of this code.

b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

HISTORICAL NOTE

Section amended L.L. 66/1989 § 13

Section added chap 907/1985 § 1

Subd. a open par amended L.L. 24/1996 § 3, eff. June 25, 1996

Subd. a par 9 added L.L. 65/1997 § 1, eff. Sept. 18, 1997

DERIVATION

Formerly § B32-357.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-393

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-393 Prohibited acts.

The following acts are prohibited:

1. Deviation from or disregard of the plans or specifications or any terms and conditions agreed to under a home improvement contract in any material respect without the written consent of the owner;

2. Making any substantial misrepresentation in the solicitation or procurement of a home improvement contract, or making any false promise of character likely to influence, persuade or induce;

3. Any fraud in the execution of, or in the material alteration of, any contract, mortgage, promissory note or other document incident to a home improvement transaction;

4. Acting as an agent for any owner or any finance or mortgage company to arrange for or to obtain an extension of credit which is used to pay for an owner's obligations under a home improvement contract, unless the instrument evidencing such owner's indebtedness complies with subdivision b of section 433.2 of title sixteen of the code of federal regulations and the licensee complies with section 771-a of the general business law;

5. Directly or indirectly publishing any advertisement relating to home improvements which contains an assertion, representation or statement of fact which is false, deceptive, or misleading, provided that any advertisement

which is subject to and complies with the then existing rules, regulations or guides of the federal trade commission shall not be deemed false, deceptive or misleading; or by any means advertising or purporting to offer the general public any home improvement work with the intent not to accept contracts for the particular work or at the price which is advertised or offered to the public;

6. Wilful or deliberate disregard and violation of the building, sanitary, fire and health laws of this city;

7. Failure to notify the commissioner of any change or control in ownership, management or business name or location;

8. Conducting a home improvement business in any name other than the one in which the contractor is licensed;

9. Wilful failure to comply with any order, demand, rule, regulation or requirement made by the commissioner pursuant to provisions of this subchapter;

10. As part of or in connection with the inducement to make a home improvement contract, no person shall promise or offer to pay credit, or allow to a buyer any compensation or reward for the procurement of a home improvement contract with others;

11. Failing to perform work under a home improvement contract in a skillful and competent manner;

12. Procuring a certificate of completion from an owner prior to the actual completion of performance by the contractor under a home improvement contract;

13. Including any provision or clause in a home improvement contract whereby the owner waives or is barred from asserting any rights, claims, defenses or remedies available to an owner under this subchapter or any rules promulgated pursuant thereto;

14. Failing to comply with subdivision four of section seventy-one-a of the lien law;

15. a. No salesperson may concurrently represent more than one contractor in the solicitation or negotiation of any one home improvement contract from an owner. The use of a contract form which fails to disclose a named contractor principal, whether for the purpose of offering the contract to various contractors other than the one the salesperson purported to represent in negotiation or otherwise, is prohibited. No salesperson may be authorized to select a prime contractor on behalf of the owner.

b. No salesperson shall accept or pay any compensation of any kind, for or on account of a home improvement transaction, from or for any person other than the contractor whom he or she represents with respect to the transaction.

16. a. As a part of or in connection with the inducement to enter any home improvement contract, no person shall promise or offer to pay, credit, or allow to any owner, compensation or reward for the procurement or placing of home improvements business with others.

b. No contractor or salesperson shall offer, deliver, pay, credit or allow to the owner any gift, bonus award or merchandise, trading stamps, or cash loan as an inducement to enter a home improvement contract.

c. A contractor or salesperson may give tangible items to prospective customers for advertising or sales promotion purposes where the gift is not conditioned upon obtaining a contract for home improvement work; provided no such item shall exceed a cost value of two dollars and fifty cents and no owner and/or other person shall receive more than one such item in connection with any one transaction.

17. Notwithstanding any other provisions of this section, no person licensed under this subchapter shall, in connection with any home repair or home improvement, act as an agent for, or advertise, promote or arrange for the

services of a lender or its affiliate to secure a home loan or a home improvement loan for or on behalf of an owner.

18. No contractor shall receive payment from the proceeds of a home improvement loan except by an instrument payable solely to the borrower or at the election of the borrower, through a third party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender and the contractor prior to disbursement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 1 amended L.L. 24/1996 § 4, eff. June 25, 1996

Subd. 4 amended L.L. 64/2005 § 1, eff. Oct. 9, 2005.

Subd. 4 repealed and added L.L. 24/1996 § 5, eff. June 25, 1996

Subds. 11-14 added L.L. 24/1996 § 6, eff. June 25, 1996

Subds. 15, 16 renumbered L.L. 24/1996 § 6, eff. June 25, 1996 formerly

subds. 11, 12

Subds. 17, 18 repealed and added L.L. 64/2005 §§ 2, 3, eff. Oct. 9, 2005.

Subds. 17, 18 added L.L. 36/2002 § 4, eff. Feb. 18, 2003.

DERIVATION

Formerly § B32-358.0 added LL 21/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Section which makes abandonment or wilful failure to perform without justification a home improvement contract a misdemeanor is unconstitutional as violative of the Thirteenth Amendment and the federal statutes in support thereof.-People v. Lavender, 48 N.Y. 2d 334 [1979].

CASE NOTES

¶ 1. In Harmon v. Ivy Walk Inc. 2008 NY Slip. Op. 1632, 48 AD3d 344, 853 N.Y.S.2d 289 (1st Dept. 2008), a residential owner (Harmon) and a contractor (Ivy Walk) entered into a contract which provided that disputes would be subject to arbitration. When a dispute arose, Harmon sought to stay arbitration on the ground that Ivy Walk had violated the contractor licensing laws. Ivy Walk originally was incorporated under the name, and changed its name to "Ivy Walk, Inc." by a certificate of amendment. Ivy Walk renewed its license after changing its name. Although the renewal application had the correct tax identification number, address, telephone number and ownership information, it did not inform the Dept. of Consumer Affairs (DCA) about the name change. Over a year later, during the pendency of this proceeding, the DCA issued a new home improvement license, under a different number, to Ivy Walk, Inc. In seeking a stay of arbitration, Harmon pointed out that at the time of the making of the contract, Ivy Walk's license was in its former name, and contended that Ivy Walk's failure to inform DCA of its name change rendered the construction contract unenforceable. The court began its analysis by noting that the Home Improvement Bus. Law (Admin. Code of the City of NY Chap. 2) is a consumer protectioin statute whose intent was to safeguard and protect consumers against fraudulent practices and inferior work products by persons and businesses claiming to be home improvement contractors (§ 20-385). The code provides that those who conduct home improvement businesses must be licensed (§ 20-387(a)) and strict compliance with this licensing requirement is mandatory. Here, it is undisputed that Ivy Walk

Company had a licensed issued by DCA, and retained the same corporate structure. Thus, the issue becomes whether their failure to notify DCA of its name change, as required by § 20-393(7) voided its license, and consequently, the contract established between the parties.

Section 20-393 applies only to licensed contractors. By finding a violation of this section, the court essentially acknowledged that Ivy Walk was a licensed contractor. There is a difference between violations by licensed contractors under § 20-392 from violations by unlicensed contractors § 20-401. Notice and due process requirements under § 20-399 must be provided to a licensee before a penalty is imposed. Only after the penalty is imposed, do the courts engage in a judicial review process as defined under § 20-400.

The court said that even though the name change had not been reported to DCA, it it has long been held that a corporation may be known by several names in transacting its business, and it may enforce and be bound by contracts entered into in an adopted name other than the regular name under which it was incorporated. This is particularly the case where there is no confusion as to the parties involved in the contract. There is no issue here that the parties did not know with whom they were dealing. Ivy Walk had the same officers and contact information as those on file with DCA. While it was true that Ivy Walk did not comply with the name change requirements as defined under the Admin. Code, that issue should be addressed according to the regulations set forth under the code, and not as a means to prevent mediation or arbitration. Accordingly, the court denied the petition to stay arbitration.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-394

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-394 Waiver.

No acts, agreements or statements of an owner under a home improvement contract shall constitute a waiver of any provisions of this subchapter intended for the benefit or protection of the owner.

HISTORICAL NOTE

Section amended L.L. 24/1996 § 7, eff. June 25, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-359.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-394.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-394.1 Right of owner to cancel.

A licensee shall furnish a notice to the owner that, in addition to any other right to revoke an offer, the owner may cancel a home improvement contract until midnight of the third business day after the day on which the owner has signed an agreement or offer to purchase relating to such contract or until midnight of the third business day after the day on which the owner receives the notice of his or her right to cancel, whichever occurs later. Cancellation occurs when written notice of cancellation is given to the home improvement contractor. Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid. Notice of cancellation shall be sufficient if it indicates the intention of the owner not to be bound by such home improvement contract or offer to purchase relating to such contract. Notwithstanding the foregoing, this paragraph shall not apply to a transaction in which the owner has initiated the contact and the home improvement is needed to meet a bona fide emergency of the owner, and the owner furnishes the home improvement contractor with a separate dated and signed personal statement in the owner's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the home improvement contract within three business days.

HISTORICAL NOTE

Section added L.L. 24/1996 § 8, eff. June 25, 1996

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Administrative Code of the City of New York

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NYC Administrative Code 20-395

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-395 Duty to furnish estimate.

A home improvement contractor or any salesperson, employee or agent of such contractor shall affirmatively disclose that an estimate in writing of the materials and labor necessary for a specific home improvement job is available to any consumer. Upon request, such contractor shall make and furnish to the consumer such estimate. A reasonable fee may be charged for the estimate, which fee shall be disclosed to the consumer prior to the furnishing of the estimate and shall be itemized and reflected in the total estimated contract price.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-367.0 added LL 2/1981 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-396

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-396 False or fraudulent representation; damages.

a. Any contractor, canvasser or seller of home improvements who shall knowingly make any false or fraudulent representations or statements or who makes or causes any such statements to be made in respect to the character of any sale, or the party authorizing the same, or as to the quality, condition, or value of any property offered by him or her for sale, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars.

b. Any person who is induced to contract for home improvements in reliance on false or fraudulent representations or statements knowingly made, may sue and recover from such home improvement contractor or solicitor a penalty of five hundred dollars in addition to any damages sustained by him or her by reason of such statements or representations made by the contractor or by his or her agents or employees.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-360.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-397

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-397 Exceptions.

No contractor's license shall be required in the following instances:

1. An individual who performs labor or services for a contractor for wages or salary.

2. A plumber, electrician, architect, professional engineer, or any other such person who is required by state or city law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession, or any person required to be licensed pursuant to article six-D of the general business law to engage in the business of installing, servicing, or maintaining security or fire alarm systems, and who is acting exclusively within the scope of the craft, profession or business for which he or she is currently licensed pursuant to such other law.

3. Any retail clerk, clerical, administrative, or other employee of a licensed contractor, as to a transaction on the premises of the contractor.

4. This subchapter shall not apply to or affect the validity of a home improvement contract otherwise within the purview of this subchapter which is made prior to October first, nineteen hundred sixty-eight.

5. Any home improvement, where the aggregate contract price for all labor materials and other items is less than two hundred dollars. This exemption does not apply where the work is only part of a larger or major operation, whether

undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than two hundred dollars for the purpose of evasion of this provision or otherwise.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 2 amended L.L. 23/1996 § 2, eff. Feb. 26, 1996

DERIVATION

Formerly § B32-361.0 added LL 21/1968 § 1

CASE NOTES

¶ 1. See Intrepid Electrical Contractor, Inc. v. Serure, 34 A.D.3d 430, 824 N.Y.S.2d 351 (2d Dept. 2006), discussed in Note 20 to Admin. Code Sec. 20-387.

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Administrative Code of the City of New York

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NYC Administrative Code 20-398

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-398 Power to investigate.

If the commissioner upon reasonable cause should believe that any licensee or any other person has violated any of the provisions of this subchapter or any other law, relating to a home improvement business, he or she shall have the power to make such investigation as he or she shall deem necessary, and to the extent necessary for this purpose, he or she may examine such licensee or any other persons and shall have the power to compel the production of all relevant books, records, accounts, documents or other records.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-362.0 added LL 21/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-399

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-399 Hearings on charges; decision.

No license shall be suspended or revoked nor fine imposed until after a hearing had before an officer or employee of the department designated for such purpose by the commissioner upon notice to the licensee of at least ten days. The notice shall be served either personally or by first-class mail to the licensee at his or her last known address and shall state the date and place of the hearing and set forth the ground or grounds constituting the charges against the licensee. The licensee shall be heard in his or her defense either in person or by counsel and may produce witnesses and testify in his or her behalf. A stenographic or electronic record of the hearing shall be made and preserved. The hearing may be adjourned from time to time. The person conducting the hearing shall make a written report of his or her findings and a recommendation to the commissioner for a decision. The commissioner shall review such findings and the recommendation and, after due deliberation, shall issue an order accepting, modifying or rejecting such recommendation and dismissing the charges or suspending or revoking the license. For the purpose of this subchapter, the commissioner or any officer or employee of the department designated by him or her may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents deemed pertinent to the subject of investigation.

HISTORICAL NOTE

Section amended L.L. 24/1996 § 9, eff. June 25, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-363.0 added LL 21/1968 § 1

Amended LL 56/1984 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-400

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-400 Judicial review.

The action of the commissioner in suspending, revoking or refusing to issue or renew a license may be reviewed by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-364.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-401

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-401 Violations and penalties.

1. a. Any person who shall own, conduct or operate a home improvement business without a license therefor or who shall knowingly violate any of the provisions of this subchapter or any rules promulgated thereunder, with the exception of violations referred to in section 20-396 of this subchapter, or having had his or her license suspended or revoked shall continue to engage in such business, shall be guilty of a misdemeanor, and upon conviction, shall be punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or both such fine and imprisonment, and each such violation shall be deemed a separate offense.

b. In addition to the penalties provided by paragraph a of this subdivision and those provided by sections 20-105 and 20-106 of chapter one of this title, any person who violates any of the provisions of this subchapter shall be liable for a penalty of not more than one thousand dollars for each such violation.

2. The corporation counsel may bring an action in the name of the city to restrain or prevent any violation of this subchapter or any continuance of any such violation.

3. Where any violation of this subchapter is found to be willful or where such violation has posed a threat to the health or safety of the owner, the commissioner may order the contractor to pay to the owner an amount which shall not exceed three times the actual amount of any damages sustained by the owner as a result of such violations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 1 amended L.L. 24/1996 § 10, eff. June 25, 1996

Subd. 3 added L.L. 24/1996 § 11, eff. June 25, 1996

DERIVATION

Formerly § B32-365.0 added LL 21/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where defendant contracted with plaintiff to provide labor and materials to build three additional rooms in plaintiff's basement for $2900 and plaintiff paid $2600 of which $1700 was paid to others for materials and electrical work and defendant was not licensed as required by this section, plaintiff could not recover the $2600 paid to defendant. To so require would be to impose a civil as well as a criminal penalty and would be inconsistent with "the traditional spirit of fair play".-Host v. Gauntlett, 169 (37) N.Y.L.J. (2-30-73) 19, Col. 4 T.

¶ 2. Failure of plaintiff to obtain license under § B32-352.0 precluded him from obtaining aid of court in enforcing his claim for labor and materials supplied in connection with home renovation either in contract or quantum meruit.-Buffaleno v. Denning, 82 Misc. 2d 472, 369 N.Y.S. 2d 600 [1975].

¶ 3. Where a contractor cannot prove that he was licensed the contract for home improvements will not be enforced and his recovery is "limited to the lesser of plaintiff's costs of performance, its reasonable value or the contract price so that no profit may be derived from the statute".-Gargano v. Smith, 97 Misc. 2d 555 [1978].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-401.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-401.1 Violations for operating without a license; seizure; forfeiture.

a. 1. For purposes of this section, the term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of the vehicle and traffic law.

2. For purposes of this section, the term "security interest" shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law.

3. For purposes of this section, the term "unlicensed activity" shall mean the conduct of any activity for which a license is required pursuant to subdivision a of section 20-387 of this subchapter, without such license.

b. Any police officer or authorized officer or employee of the department, upon service on the owner or operator of a vehicle of a notice of violation for engaging in unlicensed activity, may seize a vehicle which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with such violation. Any vehicle seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. The commissioner shall hold a hearing to adjudicate the violation underlying the seizure within five business days after the date of seizure and shall render his or her determination within three business days after the conclusion of the hearing. Such determination shall also include a finding as to whether or not such vehicle was used in connection with such violation.

c. An owner may obtain release of a vehicle seized pursuant to subdivision b of this section prior to the hearing provided for in such subdivision, if such owner has not previously been found to have engaged in unlicensed activity within a five-year period prior to the violation resulting in such seizure. The vehicle shall be released to an eligible owner upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle.

d. After adjudication of the violation underlying the seizure, if the commissioner finds that the vehicle has not been used in connection with unlicensed activity, the department shall promptly release such vehicle upon written demand of its owner.

e. After adjudication of the violation underlying the seizure, if the commissioner finds that the vehicle has been used in connection with unlicensed activity then: (i) if the vehicle is not subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department shall release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage; or (ii) if the vehicle is subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department may release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the owner's written demand for such vehicle.

f. Any vehicle that has not been claimed by the owner within ten days after adjudication by the commissioner of the violation underlying the seizure shall be deemed by the department to be abandoned. Such vehicle shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law.

g. 1. In addition to any other fine, penalty or sanction provided for in section 20-401 of this code, a vehicle seized pursuant to subdivision b of this section, and all rights, title and interest therein shall be subject to forfeiture to the city upon notice and judicial determination thereof if the owner of such vehicle has been found liable at least two times within a five-year period for engaging in unlicensed activity, and each of those determinations have included findings that a vehicle was used in connection with such violations.

2. A forfeiture action pursuant to this subdivision shall be commenced by the filing of a summons with a notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on all owners of the subject vehicle listed in the records maintained by the department of motor vehicles, or for vehicles not registered in the state of New York, in the records maintained by the state of registration. A vehicle which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

3. Notice of the institution of the forfeiture action shall be given by first-class mail to all persons holding a security interest in such vehicle, if such security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in the state of New York, all persons holding a security interest in such vehicle if such security interest has been filed with the state of registration and which persons are made known by such state to the department, at the address provided by such state of registration.

4. Any owner who receives notice of the institution of a forfeiture action who claims an interest in the vehicle subject to forfeiture may assert a claim in such action for the recovery of the vehicle or satisfaction of the owner's interest in such vehicle. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action who claims an interest in such vehicle subject to forfeiture may assert a claim in such action for satisfaction of such person's security interest in such vehicle.

5. Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest

in the vehicle pursuant to paragraph four of this subdivision, where such person establishes that: (i) the use of the vehicle for the conduct that was the basis for the seizure of the vehicle occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by doing all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle in order to avoid the forfeiture of such vehicle, or (ii) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

6. The department or agency having custody of the vehicle, after judicial determination of forfeiture, shall, at its discretion, either (i) retain such vehicle for the official use of the city; or (ii) by public notice of at least five days, sell such forfeited vehicle at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

7. In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's interest in the forfeited vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle after deduction of the lawful expenses incurred by the city, including reasonable costs of removal and storage of the vehicle between the time of seizure and the date of sale.

HISTORICAL NOTE

Section added L.L. 24/1996 § 12, eff. June 25, 1996

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-402

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 22 HOME IMPROVEMENT BUSINESS

§ 20-402 Official acts used as evidence.

The official acts of the commissioner and the department shall be prima facie evidence of the facts therein and shall be entitled to be received in evidence in all actions at law and other legal proceedings in any court or before any agency, board, body or officer.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-366.0 added LL 21/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-403

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-403 License required.

It shall be unlawful for any person to be employed as or perform the services of process server without a license therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-450.0 added LL 80/1969 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. This statute covers not only process servers but a process serving agency.-A.B.C. Process Serving Bureau v. City of N.Y., 63 Misc. 2d 33, 310 N.Y.S. 2d 859 [1970].

¶ 2. Service of process was valid although made by person not licensed as a process server as required by this section.-Novick v. Benjamin, 167 (57) N.Y.L.J. (3-23-72) 16, Col. 5 F.

¶ 3. Valid service of process is not rendered invalid by fact that it was made by a person who had served more than five persons within the past year and was not a licensed process server.-Wellington Associates v. Vendee Enterprise Corp., 75 Misc. 2d 330, 347 N.Y.S. 2d 788 [1973].

¶ 4. Petitioner, proprietor of a process serving business in White Plains, had no standing to bring an Article 78 proceeding seeking to direct the Commissioner of the Department of Consumer Affairs to enforce the licensing requirement for process servers as to various unlicensed businesses based in Westchester, since the ordinance was not adopted to benefit process servers but to protect the public against abuses in the field of process serving.-Matter of Nolen (Ratner) 180 (114) N.Y.L.J. (12-25-78) 6, Col. 2T.

¶ 5. Service process in holdover summary proceeding which was proper in all other respects, shall not be void merely because process service was unlicensed pursuant to Art. 43 (§ B32-450.0 et seq.). Enforcement provisions of licensing requirements are contained in Title A, chap. 32 (§ 773-1.0 et seq.) and also do not make such service void.-Feierstein v. Mullan, 120 Misc. 2d 574 [1983].

CASE NOTES

¶ 1. A routine check of records of a licensed process server showed that petitioner, a process server, on several occasions, had prepared affidavits of service and logbook entries which indicated service was made on two different persons at two different addresses at exactly the same time or within a ten minute period, when in fact the addresses were a considerable distance apart and such timing would be physically impossible. The court held that the violation was sufficiently severe as to warrant revocation of the process server's license, although it reduced the fine imposed on petitioner, in light of his age (62) and that fact that he had only been working part-time. Hecker v. Department of Consumer Affairs of the City of New York, 131 Misc.2d 280, 499 N.Y.S.2d 828 (Sup.Ct. New York Co. 1986).

¶ 2. Otherwise valid service of process will not be invalidated by reason of non-compliance with Ad Code provisions regarding the licensing of process servers. Timur on Fifth Ave. v Jim, Jack & Joe Realty Corp., N.Y.L.J., Oct. 19, 2000, page 29, col. 2 (App.Term 1st Dept.).

¶ 3. Where a process server does not have the required license, he or she may be subject to sanctions for non-compliance. However, if service is otherwise valid, the lack of a license will not invalidate service. New York City Housing Auth. Taylor-Wythe Houses v. Spitzer, 12 Misc.3d 1166(A), 820 N.Y.S.2d 844, 2006 WL 1559606 (Civ.Ct. Kings Co.).

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Administrative Code of the City of New York

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NYC Administrative Code 20-404

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-404 Definition.

a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.

b. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-451.0 added LL 80/1969 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-405

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-405 Exceptions.

a. The provisions of this subchapter shall not apply to any employee of any city, state or federal department or agency, who is acting within the scope of his or her employment.

b. The provisions of this subchapter shall not apply to attorneys duly admitted to practice law in the state of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-452.0 added LL 80/1969 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-406

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-406 Application; fingerprinting.

a. An application for such a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.

b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, driectors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

HISTORICAL NOTE

Section amended L.L. 66/1989 § 14.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-453.0 added LL 80/1969 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-407

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-407 Fee; term.

The biennial license fee to be paid by such persons shall be three hundred forty dollars.

HISTORICAL NOTE

Section amended L.L. 51/1991 § 6, eff. July 17, 1991.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-454.0 added LL 80/1969 § 1

Sub b repealed LL 74/1977 § 3

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-408

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-408 Rules and regulations.

The commissioner may make and promulgate such rules and regulations as he or she may deem necessary for the proper implementation and enforcement of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-455.0 added LL 80/1969 § 1

CASE NOTES

¶ 1. Petitioner failed to comply with record-keeping requirements, kept conflicting logs, resisted record review and made unlicensed service of process resulting in a suspension of license and a $4,125 fine which is fair punishment. Matter of Farnham v. City of New York, 139 AD2d 579 [1988].

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Administrative Code of the City of New York

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NYC Administrative Code 20-409

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 23 PROCESS SERVERS

§ 20-409 Issuance, renewal, suspension and revocation of a license.

a. A license issued hereunder may be suspended or revoked or its renewal denied by the commissioner at any time for the failure of the licensee to comply with any rule, regulation or order promulgated by the commissioner.

b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

HISTORICAL NOTE

Section amended L.L. 66/1989 § 15.

Section added chap 907/1985 § 1.

DERIVATION

Formerly § B32-456.0 added LL 80/1969 § 1

CASE NOTES

¶ 1. Petitioner's license as process server was revoked and he was fined $4,900 because of repeated disregard for the record-keeping provisions and failure to record type of service. Barr v. Dept. of Consumer Affairs 127 AD2d 1012 [1987].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-410

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 24 ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS*98

§ 20-410 Legislative declaration.

It is hereby declared that the business of servicing electronic or home appliances has become the subject of great abuse. The public has been and is unprotected from unethical and financially unstable service dealers. The necessity for legislative intervention to protect the public and legitimate service dealers is hereby declared as a matter of legislative determination.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 2, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-465.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-411

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 24 ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS*98

§ 20-411 Definitions.

Whenever used in this subchapter, the following terms shall mean:

1. "Person" means an individual, firm, partnership, trust, association or corporation.

2. "Complainant" means the customer of a service dealer who has complained concerning an alleged violation of this subchapter, any rule promulgated pursuant thereto, or any practice engaged in by a service dealer or any of his or her employees.

3. "Service dealer" means a person who within the city of New York:

a. advertises that he or she performs repair service on electronic or home appliances, or makes public statements reasonably calculated to lead an ordinary consumer to believe that he or she performs such repair service;

b. solicits or bills a customer for repair service on electronic or home appliances;

c. sells service contracts or maintenance agreements for the performance of repair service on electronic or home appliances and accepts requests for such repair service under such service contracts or maintenance agreements;

d. accepts requests for repair service or receives electronic or home appliances for the performance of repair

service; or

e. provides, as part of a sales transaction, repair service, including repair service performed by the seller, subcontractor, or other service repairer;

provided, however, that the term "service dealer" shall apply to a manufacturer of electronic or home appliances only when such manufacturer acting as a retailer engages in any of the activities described in this subdivision.

4. "Repair service" or "repair servicing" means the installation, maintenance, repair, replacement, testing, inspection or modification for compensation, other consideration or under a warranty, of electronic or home appliances.

5. "Electronic or home appliance" means any electronic device, or any appliance, that is commonly used in a household, including, but not limited to, televisions, radios, stereo systems, compact disc players, home computer systems, telephones, telephone answering machines, satellite dishes, cameras, calculators, video recorders or players, camcorders or other portable video recording devices, cassette recorders or players, facsimile machines, portable photocopiers, air conditioners, clothes washing machines, clothes dryers, dishwashers, food freezes, refrigerators, stoves, ranges, ovens, microwave ovens or sewing machines.

6. "Service repairer" means a person who performs repair service on electronic or home appliances.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 3, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-466.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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Administrative Code of the City of New York

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NYC Administrative Code 20-412

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 24 ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS*98

§ 20-412 License required.

1. No person shall represent or hold himself or herself out to be, or engage in business as, a service dealer, unless duly licensed pursuant to this subchapter.

2. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

HISTORICAL NOTE

Section amended L.L. 66/1989 § 16.

Section added chap 907/1985 § 1

Subd. 1 amended L.L. 39/1992 § 4, eff. Jan. 1, 1993.

DERIVATION

Formerly § B32-467.0 added LL 74/1973 § 1

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FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-413

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 24 ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS*98

§ 20-413 Licenses generally.

No license shall be issued or renewed unless the applicant or licensee is of good moral character and complies with all requirements governing the operation of the affected business which the commissioner prescribes by regulation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-468.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-414

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 24 ELECTRONIC OR HOME APPLIANCE SERVICE DEALERS*98

§ 20-414 Fees.

The biennial fee for a license or a renewal thereof shall be three hundred and forty dollars.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 5, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-469.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of

L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-415

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§ 20-415 Service dealer manager.

[Repealed]

HISTORICAL NOTE

Section repealed L.L. 39/1992 § 6, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-470.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of

L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-416

Administrative Code of the City of New York

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§ 20-416 Permit required for service dealer manager.

[Repealed]

HISTORICAL NOTE

Section repealed L.L. 39/1992 § 6, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-471.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of

L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

NYC Administrative Code 20-417

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§ 20-417 Duties of licensees.

1. All work done by a service dealer shall be recorded on an invoice which shall contain the license number and such other detail as may be required by regulations promulgated by the commissioner. The invoice shall fully, separately and clearly describe all service work performed, all parts supplied, the date or dates thereof, and all charges made and the computations thereof. One copy of the invoice shall be delivered to the customer and one copy shall be retained by the service dealer for a period of at least three years from the date of such delivery.

2. The service dealer shall return all replaced parts to the customer, except such parts as may be exempted from this requirement by regulations of the commissioner and except such parts as the service dealer requires for return to the manufacturer or distributor under a warranty arrangement.

3. The service dealer shall comply with regulations promulgated by the commissioner setting forth requirements for estimates or the making of such estimates and shall inform the customer as to the cost thereof prior to rendering same.

4. A service dealer shall not make the remuneration, salary, wage, or other compensation of any employee, partner, officer or member contingent or dependent upon, or in any manner determined by the value, price, quantity or type of parts replaced, upon any apparatus serviced or repaired by any person required to be licensed by this subchapter.

5. A service dealer shall maintain such additional records as are required by regulations adopted by the commissioner to carry out the provisions of this subchapter. Such records shall be open and available for reasonable inspection by the commissioner or other law enforcement officials, and shall be kept for a period of three years.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-472.0 added LL 74/1973 § 1

CASE NOTES

¶ 1. This section is constitutional in so far as it authorizes nonconsensual periodic inspections of the records of licensed television and radio repair businesses without a search warrant since these records are in the public domain and their custodian is not afforded the traditional protections of the Fourth Amendment.-Matter of Glenwood TV, Inc. v. Ratner and Matter of Charles TV, Inc. v. Ratner, 103 A.D. 2d 322 [1984].

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-418

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§ 20-418 Regulations.

The commissioner shall make such regulations as deemed necessary for the proper implementation and enforcement of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-473.0 added LL 74/1973 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Regulation requiring customer to be given a written estimate which he must sign as an authorization to do the work is not unconstitutional.-Metropolitan Electronic Television Dealers Asso. v. Guggenheimer, 51 A.D. 2d 922, 381 N.Y.S. 2d 87 [1976].

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-419

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§ 20-419 License denial; right to hearing.

No license may be denied for failure to meet any requirement established by this subchapter or by the commissioner without a hearing.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 7, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-474.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-420

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§ 20-420 Issuance, renewal, revocation and suspension of license; fines.

In addition to any powers of the commissioner, and not in limitation thereof, a license required pursuant to this subchapter may be suspended or revoked or issuance or renewal thereof denied by the commissioner, and the licensee may be fined pursuant to subdivision e of section 20-104 of chapter one of this title, upon a determination made by the commissioner or the commissioner's designee after due notice and hearing, that an applicant or a licensee, any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation:

(a) has practiced fraud or misrepresentation upon a customer;

(b) has practiced fraud or misrepresentation in establishing his or her qualifications for a license under this subchapter;

(c) has aided or abetted another in practicing fraud or misrepresentation upon a customer or in establishing qualifications for a license under this subchapter;

(d) has engaged in or has aided or abetted another in engaging in untrue, misleading or deceptive advertising, or unlawful selling practices as defined by the laws of this state, municipality or other local governmental unit within which such advertising or practices occurred;

(e) is incompetent or untrustworthy and is thereby unfit to discharge the responsibilities of a licensee;

(f) has failed upon request to render to the customer an itemized bill, in writing, containing such details as may be required by the rules of the department;

(g) has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license;

(h) has violated any of the provisions of this title, subchapter or the rules promulgated thereunder, or has knowingly caused, permitted, aided or abetted another in committing such violation.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 8, eff. Jan. 1, 1993.

Section amended L.L. 66/1989 § 17.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-475.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-421

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§ 20-421 Informal adjustment of complaints.

1. The commissioner shall receive complaints from the public against any person issued a license pursuant to this subchapter.

2. The commissioner shall make a summary investigation of the facts.

3. After investigation, the commissioner may advise the licensee of the contents of the complaint and may recommend measures that would compensate the complainant for any damages suffered as a result of the conduct of the licensee or make recommendations which otherwise may reasonably dispose of the complaint. If the licensee accepts the commissioner's recommendations and performs accordingly, such fact shall be given due consideration in any subsequent disciplinary proceedings instituted by the commissioner. If the licensee declines to accept the recommendations of the commissioner and to perform accordingly, the commissioner may investigate further or may institute a departmental hearing with respect to the complaint, and may therafter require the licensee to make proper restitution to the complainant and may also take such disciplinary action as provided in this subchapter.

4. If the licensee accepts the recommendations of the commissioner and is willing to perform accordingly, but the complainant refuses to accept such recommendations, the commissioner shall not be required to take further action with respect to the complaint.

HISTORICAL NOTE

Section amended L.L. 39/1992 § 9, eff. Jan. 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-476.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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§ 20-422 Powers and duties of the commissioner.

1. In addition to any other powers of the commissioner, and not in limitation thereof, the commissioner shall have the power to enforce the provisions of this subchapter, to investigate any violation thereof, and to investigate the business, business practices and business methods of any person who is or may be subject to this subchapter, if in the opinion of the commissioner, such investigation is warranted. Each person shall be obliged upon the request of the commissioner, to supply such information as may be required concerning the business, business practices or business methods or the proposed business practices or business methods.

2. For the purpose of enforcing the provisions of this subchapter and in conducting investigations relating to any violation thereof, and for the purpose of investigating the character, competence and integrity of any person who is or may be subject to this subchapter, and the business, business practices and business methods thereof, the commissioner, or commissioner's designee shall have the power to compel the attendance of witnesses and the production of books and records, in accordance with the provisions of the civil practice law and rules. However, no information supplied by any person at the request of the commissioner concerning his or her business, business practices or business methods, or proposed business practices or methods shall be disclosed, except as may be necessary for the purpose of enforcing the provisions of this subchapter.

3. The commissioner may establish and properly equip an electronic or home appliance laboratory for the purpose of testing the competence and integrity of licensed service dealers, whenever complaints against such licensees

would indicate the necessity or advisability for such testing, and such laboratory may be further used in the necessary investigations that may be conducted by the commissioner in connection with the proper administration and enforcement of the provisions of this subchapter and the rules adopted thereunder.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 3 amended L.L. 39/1992 § 10, eff. Jan. 1, 1993.

DERIVATION

Formerly § B32-478.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-423

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§ 20-423 Review.

The provisions of article seventy-eight of the civil practice law and rules shall be applicable to this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-479.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-424

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§ 20-424 Exceptions.

This subchapter shall not apply to any of the following:

1. the government of the United States or any department or agency thereof;

2. any school, public or private, offering as part of a vocational education program, courses and training in repair service and the instructors and teachers thereof; provided the exclusion granted herein shall be applicable only to repair service rendered in and as part of a regularly constituted vocational education program and when such repair service is not offered to the public for compensation or other consideration.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 2 amended L.L. 39/1992 § 11, eff. Jan. 1, 1993.

DERIVATION

Formerly § B32-480.0 added LL 74/1973 § 1

FOOTNOTES

98

[Footnote 98]: * Subchapter heading amended L.L. 39/1992 § 1, eff. Jan. 1, 1993. Note provisions of L.L. 39/1992.

§ 12. Notwithstanding any other provision of law, any person who on the effective date of this local law is a licensed service dealer under subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as in effect prior to the effective date of this local law shall be deemed to be a licensed service dealer pursuant to subchapter twenty-four of chapter two of title twenty of such code as amended by this local law, provided that the holder of such service dealer license pays an additional license fee of fifty-five dollars to the department of consumer affairs within ninety days of the effective date of this local law. If the holder of such service dealer license fails to pay the additional license fee to the department of consumer affairs within ninety days, such service dealer license shall become null and void and be of no further effect.

§ 13. Notwithstanding any inconsistent provision of law, the first term of the license issued to a service dealer newly subject to licensing pursuant to subchapter twenty-four of chapter two of title twenty of the administrative code of the city of New York as amended by this local law, shall run from the date of issuance of such license until June 30, 1994, unless sooner suspended or revoked.

§ 14. This local law shall take effect January 1, 1993, provided that the department of consumer affairs may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

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NYC Administrative Code 20-425

Administrative Code of the City of New York

Title 20 Consumer Affairs

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SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-425 Definitions.

Whenever used in this subchapter the following terms shall mean:

a. "Disabled" means a person who has a physical or medical impairment resulting from anatomical or physiological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

b. "Products for the Disabled" means any instrument or device either represented as an aid for or designed specifically or substantially for the disabled. This includes but is not limited to: braces, crutches, prosthetic devices, ostomy supplies and equipment, orthotic devices, self-help aids and wheelchairs. This subchapter does not apply to prosthetic dental devices, or any product, instrument or device the manufacturing, retailing or distribution of which is licensed by any other state or local law.

c. "Person" means any firm, partnership, association, corporation or individual.

d. "Dealer" means any person who engages in a business which substantially involves the selling, renting, repairing, or adjusting of products for the disabled, and who is not licensed or registered by any other state or local law.

e. "Repair and Service" includes repair, adjustment, modification, maintenance, removal or installation of any

integral parts, attachments or accessories to products for the disabled, whether done for compensation, other consideration, or under a warranty.

f. "Written Estimate" means a signed writing containing:

1. a listing of the parts to be replaced and the cost of the replacements; and

2. a general description of the labor required for the repair and its cost; and

3. a statement of additional charges, if any, for the estimate, any service call, or any other extra charge excluding tax; and

4. the promised date of completion of the repair or delivery of purchased goods; and

5. a form statement that the final cost, excluding tax, will not exceed the estimated cost by more than twenty percent. This statement need not be given if the final cost, excluding tax, will not be more than the estimated cost.

g. "Final Bill" means a signed writing containing:

1. an itemization of each replacement part, including a description by make and model or serial number or by class and type or such other description as will reasonably identify each part, and including the charge for each replacement part; and

2. a statement of the labor required for the repair and the total cost of such labor; and

3. a statement of additional charges, if any, for the estimate, pickup and delivery, service charge and any other charges.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-482 added LL 89/1977 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Defendant fitted and sold custom breast prostheses to women who had surgical mastectomies, without license pursuant to § B32-483. License is required for . . . "products for the disabled," which are defined as including "prosthetic devices" except prosthetic dental devices (§ B32-482). Provisions are sufficiently broad to include women who have had a surgical mastectomy procedure.-N.Y.C. v. Apres Body Replacement, Inc. a/k/a Elke Apres Replacement, Inc. 97 A.D. 2d 378, [1983].

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NYC Administrative Code 20-426

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SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-426 License required.

a. It shall be unlawful for any dealer to engage in the selling, renting, fitting, repairing, or servicing of, or making adjustments to, products for the disabled without a license therefor.

b. An application for a license shall be made to the com- missioner.

c. Any person maintaining more than one facility where such services are performed may file a single application for a license, but must pay a separate fee for each facility.

d. If the business is to be carried on under a fictitious name, such name shall be stated on the application for a license. If the dealer is a partnership, any identifying data prescribed by the commissioner must be stated for each partner. If the dealer is a corporation, data as to each of the officers and directors as well as the individual in charge of each place of business must be included.

e. A license issued under this subchapter is not assignable or transferable.

f. Every license issued under this subchapter must be posted conspicuously on the licensee's premises and must be accessible for inspection by any interested person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-483 added LL 89/1977 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Defendant fitted and sold custom breast prostheses to women who had surgical mastectomies, without license pursuant to § B32-483. License is required for . . . "products for the disabled", which are defined as including "prosthetic devices" except prosthetic dental devices (§ B32-482). These provisions are sufficiently broad to include women who have had a surgical mastectomy procedure.-N.Y.C. v. Apres Body Replacement, Inc. a/k/a Elke Apres Replacement, Inc., 97 A.D. 2d 378, [1983].

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NYC Administrative Code 20-427

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-427 Fees.

The annual license fee shall be one hundred dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-484 added LL 89/1977 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-428

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-428 Denial of license.

The commissioner may deny or refuse to renew a license if any applicant, partner, officer or director identified in the application for a license:

a. Previously held a license issued under this subchapter which was revoked or suspended without the terms of the suspension being fulfilled;

b. Has committed an act which, if committed by a licensee, would be grounds for suspension or revocation of a license issued pursuant to this subchapter;

c. Has acted in the capacity of a licensee under this subchapter without a license therefor;

d. Has been convicted of a crime or offense which relates to the operation of a business dealing in the sale, rental, repair or servicing of products for the disabled.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-485 added LL 89/1977 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-429

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-429 Power and duties of the commissioner.

a. The commissioner may make and promulgate such rules and regulations as may be necessary for the proper implementation and enforcement of this subchapter.

b. In addition to any other powers of the commissioner, and not in limitation thereof, the commissioner shall have the power to enforce the provisions of this subchapter, to investigate any violation thereof, and to investigate the business, business practices and business methods of any person who is or may be subject to this subchapter, if in the opinion of the commissioner such investigation is warranted. Each person shall be obliged upon the request of the commissioner to supply such information as may be required concerning the business practices or methods or the proposed business practices or methods.

c. For the purpose of enforcing the provisions of this subchapter, and in conducting investigations relating to any violation thereof, and for the purpose of investigating the character, competence and integrity of any person who is or may be subject to this subchapter, and the business or business practices or methods thereof, the commissioner, or the commissioner's designee shall have the power to compel the attendance of witnesses and the production of books and records, in accordance with the provisions of chapter one of this title of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-486 added LL 89/1977 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-430

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 25 PRODUCTS FOR THE DISABLED; SALE, RENTAL, REPAIR AND SERVICING

§ 20-430 Duties of licensees.

a. All work performed by a dealer shall be recorded legibly on an invoice which shall contain the license number and the exact name and business address of the person or business entity. The invoice shall fully, separately and clearly describe the type and make of the device, all service work performed, all parts supplied, the date or dates thereof, and all charges made and the computations thereof. A copy of the invoice shall be delivered to the customer and the other shall be retained by the dealer for a period of at least three years from the date of such delivery.

b. Upon request by telephone, in person or in writing, the dealer must provide information as to price and anticipated delivery date for the rental, sale, repair or service of any product covered by this subchapter.

c. The dealer must give a prospective customer a written estimate for labor and parts required for a specific job if he or she intends to take the job. No charge for work performed or parts supplied in excess of twenty percent over written estimate shall be made unless the consent of the customer was obtained as described in section 20-425 of this subchapter before such work was done, parts supplied or services rendered.

d. The dealer shall return all replaced parts to the customer, except such parts as may be exempted from this requirement by regulations of the commissioner and except such parts as the service dealer requires for return to the manufacturer or distributor under a warranty arrangement.

e. A dealer shall not make the remuneration, salary, wage or other compensation of any partner, staff member, or employee contingent or dependent upon, or in any manner determined by the value, price, quantity or type of parts replaced, upon any apparatus serviced or repaired by any person required to be licensed by this subchapter.

f. Every dealer shall maintain any additional records required to be kept by regulations adopted by the commissioner for a period of three years. Such records must be available for inspection by the commissioner or other law enforcement officials.

g. No dealer shall charge a total price, excluding tax, which is more than twenty percent above the written estimate.

h. No dealer shall fail to deliver the repaired item or purchased goods, together with a final bill, as defined above, on the promised completion date, unless the consumer is notified of the delay and the anticipated completion date. If complete repair is delayed for an unreasonable period of time the consumer shall have the right to the immediate return of the property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-487 added LL 89/1977 § 1

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NYC Administrative Code 20-431

Administrative Code of the City of New York

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§ 20-431 Revocation or suspension of a license.

After due notice and hearing subject to section 20-432 the commissioner or the commissioner's designee may revoke or suspend any license required under this subchapter or deny renewal of one upon a determination that a licensee:

a. Has been convicted of a crime or offense which in the judgment of the commissioner would constitute evidence that the licensee would be unfit to properly discharge his or her responsibilities under this subchapter.

b. Has practiced fraud or misrepresentation upon a customer or in establishing his or her qualifications for a license under this subchapter.

c. Has made false promises of a character likely to influence, persuade or induce a customer to authorize the sale, repair, maintenance or servicing of any product covered by this subchapter.

d. Has failed to perform work or service in accordance with accepted trade standards.

e. Has violated any of the provisions of this subchapter or the regulations promulgated thereunder or has knowingly caused, permitted, aided or abetted another in committing such violation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-488 added LL 89/1977 § 1

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NYC Administrative Code 20-432

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

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§ 20-432 Complaints; hearing, remedies.

The commissioner shall receive and investigate complaints from the public against any person issued a license pursuant to this subchapter, and after due notice and hearing, the commissioner may suspend or revoke the license or order any other measures deemed reasonable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-489 added LL 89/1977 § 1

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NYC Administrative Code 20-433

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-433 Short title.

This subchapter shall be known and may be cited as the New York city games of chance licensing law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-511.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-490.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-434

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-434 Legislative intent.

The council hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, and patriotic causes and undertakings, where the beneficiaries are undetermined, is in the public interest. It hereby finds that, as conducted prior to the enactment of this subchapter, games of chance were the subject of exploitation by professional gamblers, promoters and commercial interests. It is hereby declared to be the policy of the council that all phases of supervision, licensing and regulation of games of chance and the conduct of games of chance should be closely controlled and that the local laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the games and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization in all its forms, including the rental of commercial premises for games of chance, and to ensure a maximum availability of the net proceeds of games of chance exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this subchapter is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, and of article nine-A of the general municipal law, should be carried out by rigid regulations to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-512.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-491.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-435

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-435 Definitions.

As used in this subchapter, the following terms shall have the following meanings:

1. "Board" shall mean New York state racing and wagering board.

2. "Games of chance" shall mean and include specific games of chance, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo or lotto" which are controlled under article fourteen-H of the general muncipal law and also not including "slot machines", "bookmaking", and "policy or numbers games" as defined in section 225.00 of the penal law. No game of chance shall involve wagering of money by one player against another player.

3. "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this subchapter, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this subchapter for a period of three years immediately prior to applying for a license under this subchapter.

No organization shall be deemed an authorized organization which is formed primarily for the purpose of conducting games of chance and the distribution of the proceeds thereof to itself or any other organization and which does not devote at least seventy-five percent of its activities to other purposes set forth in this subdivision. No political party shall be deemed an authorized organization.

4. "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of a devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.

(b) Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures;

(c) Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

5. "Net proceeds" shall mean (a) in relation to the gross receipts from one or more occasions of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the board and (b) in relation to the gross rent received by an organization licensed to conduct such games for the use of its premises by another licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

6. "Net lease" shall mean a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any non-commercial or non-profit organization for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regularly recurring expenses to the operation and maintenance of such leased premises.

7. "Authorized games of chance lessor" shall mean an authorized organization which has been granted a lessor's license pursuant to the provisions of this subchapter.

8. "Prize" shall mean a sum of money or item or merchandise awarded by the authorized organization to a participant in any one operation or conducting of a game of chance in which participants utilize currency for participation and in which those who are not winners surrender their participating currency at the conclusion of the single operation of such game of chance. No prize for any one participant in any one operation or conducting of such single game of chance shall exceed the sum of one hundred dollars. If a prize is awarded based on odds, only that portion in excess of the winning participant's bet shall be considered as a prize. For the purposes of this subdivision, the value of a prize which consists of merchandise shall be the actual cost of the item of such mer-chandise.

9. "Authorized supplier of games of chance equipment" shall mean any person, firm, partnership or organization licensed by the board to sell or lease games of chance equipment or paraphernalia which meets the specifications and regulations established by the board. Nothing herein shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia constructed by an authorized organization shall be sold or leased to any other authorized organization without written permission from the board.

10. "One occasion" shall mean the conducting of any one type of game of chance during any one license period.

No series of prizes on any one occasion shall aggregate more than one thousand dollars.

11. "Licensed period" shall mean a period of time not to exceed fourteen consecutive hours.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-513.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-492.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-436

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-436 Conduct of games of chance.

1. No person, firm, association, corporation or organization, other than a licensee under the provisions of this subchapter, shall conduct such game or shall lease or otherwise make available for conducting games of chance a hall or other premises for any consideration whatsoever, direct or indirect, except as provided in section 20-437 of this subchapter.

2. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this subchapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the board or from another authorized organization.

4. The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

5. No prize shall exceed the sum or value of one hundred dollars in any operation or conducting of a single game of chance as defined in section 20-435 of this subchapter. No single wager shall exceed ten dollars.

6. No series of prizes on any one occasion of games of chance shall aggregate more than one thousand dollars as defined in section 20-435 of this subchapter.

7. No person except a bona fide member of any such organization, its auxiliary or affiliated organization, shall participate in the management or operation of such game, as set forth in section 20-444 of this subchapter.

8. No person shall receive any remuneration for participating in the management or operation of any such game.

9. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-514.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 4

(formerly § B32-493.0)

Subs 1, 5, 6, 7 amended LL 52/1984 § 4

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-437

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-437 Application for license.

1. To conduct games of chance. (a) Each applicant for a license shall, after obtaining an identification number from the board, file with the department, a written application therefor in form to be prescribed by the board, duly executed and verified, in which shall be stated:

(1) the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable such department to determine whether or not it is a bona fide authorized organization;

(2) the names and addresses of its officers; the place or places where, the date or dates and the time or times when the applicant intends to conduct games under the license applied for;

(3) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this subchapter to conduct such games or for the use of the premises of an authorized games of chance lessor;

(4) all other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

(5) the purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such game or games or for assisting therein except as in this subchapter otherwise provided; and such other information as shall be prescribed by such rules and regulations of the board.

(b) In each application there shall be designated not less than four active members of the applicant organization under whom the game or games of chance will be conducted and to the application shall be appended a statement executed by the members so designated, that they will be responsible for the conduct of such games in accordance with the terms of the license, and the rules and regulations of the board and of this subchapter.

2. Authorized games of chance lessor . Each applicant for a license to lease premises to a licensed organization for the purpose of conducting games of chance therein shall file with the department a written application therefor, in a form to be prescribed by the board, duly executed and verified, which shall set forth the name and address of the applicant; designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization" set forth in section 20-435 of this subchapter, and such other information as shall be prescribed by the board.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-515.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 5

(formerly § B32-494.0)

Sub 2 amended LL 52/1984 § 5

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-438

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-438 Investigation; matters to be determined; issuance of license; fees; duration of license.

1. The department shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application.

(a) Issuance of licenses to conduct games of chance. If such department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this subchapter; that the members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of good conduct; that such games are to be conducted in accordance with the provisions of this subchapter and in accordance with the rules and regulations of the board and that the proceeds thereof are to be disposed of as provided by this subchapter; and if such department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this subchapter otherwise provided; and that no prize will be given in excess of the sum or value of one hundred dollars in any single game and that the aggregate of all prizes given on one occasion, under said license shall not exceed the sum or value of one thousand dollars, the department shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

(b) Issuance of licenses to authorized games of chance lessors. If such department shall determine that the

applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under this subchapter; that the applicant satisfies the requirements for an authorized games of chance lessor as defined in section 20-435 of this subchapter that such department shall find and determine that there is a public need and that public advantage will be served by the issuance of such license; that the applicant has filed its proposed rent for each game of chance occasion; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this subchapter; and that such leasing of a hall or premises for the conduct of such games is to be in accordance with the provisions of this subchapter and in accordance with the rules and regulations of the board, it shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as such department shall determine, but not to exceed one year, upon payment of a license fee of fifty dollars.

2. On or before the thirtieth day of each month, the comptroller shall transmit to the state comptroller a sum equal to fifty percent of all authorized games of chance lessor license fees and the sum of fifteen dollars per license period for the conduct of games of chance collected by such department pursuant to this section during the preceding calendar month.

3. No license shall be issued under this subchapter which shall be effective for a period of more than one year.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-516.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 6

(formerly § B32-495.0)

Sub 1 par b amended LL 52/1984 § 6

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-439

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-439 Hearing; amendment of license.

1. No application for the issuance of a license to an authorized organization shall be denied by the department, until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this subchapter may be amended, upon application made to such department which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee if any, as would have been payable if it had been so included.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-517.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-496.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-440

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-440 Form and contents of license; display of license.

1. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations promulgated by the board, and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where and the date or dates and time or times when such games are to be conducted and of the purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be given in cash, a statement of the amounts of the prizes authorized so to be given; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

2. Each license to lease premises for conducting games of chance will be in such form as shall be prescribed in the rules and regulations of the board and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-518.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-497.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-441

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-441 Control and supervision; suspension of licenses; inspection of premises; rulemaking.

1. The department shall have and exercise rigid control and close supervision over all games of chance conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the board and the provisions of this subchapter, and the department and the board shall have the power and authority to temporarily suspend any license issued by the department pending a hearing and, after notice and hearing, the department and the board may suspend or revoke same, and additionally, impose a fine not exceeding one thousand dollars for violation of any such provisions, and the department and the board shall have the right of entry, by their respective officers and agents, at all times into any premises where any game of chance is being conducted or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. An agent of the department shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this subchapter.

2. Service of alcoholic beverages. Subject to the applicable provisions of the alcoholic beverage control law, beer may be offered for sale during the conduct of games of chance but the offering of all other alcoholic beverages is prohibited.

3. The commissioner of the department may promulgate such rules and regulations as deemed necessary for the proper implementation and enforcement of this subchapter and which are not inconsistent with those rules and

regulations promulgated by the board.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-519.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-498.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-442

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-442 Participation by persons under eighteen.

No person under the age of eighteen years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this subchapter. No person under the age of eighteen years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-520.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-499.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-443

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-443 Frequency of games.

No game or games of chance shall be conducted under any license issued under this subchapter more often than twelve times in any calendar year. Games shall be conducted only between the hours of noon and midnight on Monday, Tuesday, Wednesday, Thursday, and Sunday; and between the hours of noon on Friday and two a.m. Saturday; and between the hours of noon on Saturday and two a.m. Sunday. The two a.m. closing period shall also apply to a legal holiday. Notwithstanding the foregoing provisions of this section no games of chance shall be conducted on Easter Sunday, Christmas Day, New Year's Eve, and the days of Rosh Hashanah and Yom Kippur.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-521.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-500.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-444

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-444 Persons operating and conducting games; equipment; expenses; compensation.

No person shall hold, operate or conduct any games of chance under any license issued under this subchapter except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. At least two officers, directors, trustees or clergy of the authorized organization shall upon request certify, under oath, that the persons assisting in holding, operating or conducting any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization. Upon request by the department, any such person involved in such games of chance shall certify that he or she has no criminal record. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this subchapter except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by such department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-522.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-501.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-445

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-445 Charge for admission and participation; amount of prizes; award of prizes.

Not more than two dollars shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be conducted under any license issued under this subchapter. The department may in its discretion fix a minimum fee. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game of chance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-523.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-502.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-446

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-446 Advertising games.

No game of chance conducted or to be conducted in this city shall be advertised as to its location, the time when it is to be or has been played, or the prizes awarded or to be awarded, or transportation facilities to be provided to such game, by means of newspapers, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one sign not exceeding sixty square feet in area may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensee, which is a volunteer fire company, or upon any first-aid or rescue squad equipment belonging to any licensee, which is a first-aid or rescue squad, in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-524.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-503.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-447

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-447 Statement of receipts, expenses; additional license fees.

1. Within seven days after the conclusion of any license period, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized organization which rented its premises therefor, shall each furnish to the department a statement subscribed by the member in charge and affirmed by him or her as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the conduct of the games of chance during such license period, and the use to which such proceeds have been or are to be applied and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

2. Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the department as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period covered by such statement and determined in accordance with such schedule as shall be established from time to time by the board to defray the actual cost to the city of administering the provisions of this subchapter, but such additional license fee shall not exceed five percent of the net proceeds for such occasion.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-525.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-504.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-448 Examination of books and records; examination of officers and employees; disclosure of information.

1. The department and the board shall have power to examine or cause to be examined the books and records of:

a. Any authorized organization which is or has been licensed to conduct games of chance, so far as they may relate to games of chance including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance, or the disposition of net proceeds derived from games of chance, as the case may be.

b. Any authorized games of chance lessor so far as they may relate to leasing premises for games of chance and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.

2. Any information received pursuant to subdivision one shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-526.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-505.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-449

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-449 Appeals from the decision of the department to the board.

Any applicant for, or holder of, any license issued or to be issued under this subchapter aggrieved by any action of the department may appeal to the board from the determination of said department by filing with such department a written notice of appeal within thirty days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before such department and any additional evidence, may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the board upon said appeal shall be binding upon such department and all parties to said appeal.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-527.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-506.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-450

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-450 Offenses; forfeiture of license; ineligibility to apply for license.

Any person, association, corporation or organization who or which shall:

(1) make any material false statement in any application for any license authorized to be issued under this subchapter;

(2) pay or receive, for the use of any premises for conducting games of chance, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision two of section 20-440 of this subchapter;

(3) fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance;

(4) falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

(5) divert or pay any portion of the net proceeds of any game of chance to any person, association or corporation, except in furtherance of one or more of the lawful purposes defined in this subchapter; shall be guilty of a misdemeanor and shall forfeit any license issued under this subchapter and be ineligible to apply for a license under this

subchapter for at least one year thereafter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-528.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 7

(formerly § B32-507.0)

Sub 2 amended LL 52/1984 § 7

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-451

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 26 GAMES OF CHANCE*1

§ 20-451 Unlawful games of chance.

Any person, association, corporation or organization holding, operating, or conducting a game or games of chance is guilty of a misdemeanor, except when operating, holding or conducting:

(a) in accordance with a valid license issued pursuant to this subchapter, or

(b) on behalf of a bona fide organization of persons sixty years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where (i) the organization has applied for and received an identification number from the board, (ii) no player or other person furnishes anything of value for the opportunity to participate, (iii) the prizes awarded or to be awarded are nominal, (iv) no person other than a bona fide active member of the organization participates in the conduct of the games, and (v) no person is paid for conducting or assisting in the conduct of the game or games.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-529.0 added LL 56/1976 § 1

Renumbered LL 52/1984 § 3

(formerly § B32-508.0)

FOOTNOTES

1

[Footnote 1]: * Added L.L. 56/1976 which provided for a referendum, renumbered L.L. 52/1984 § 2.

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NYC Administrative Code 20-452

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-452 Definitions.

For the purposes of this subchapter, the following words and terms shall have the following meaning:

a. "Food". Any raw, cooked, or processed edible substances, beverages, ingredients, ice or water used or intended for use or for sale in whole or in part for human consumption.

b. "General vendor." A person who hawks, peddles, sells, leases or offers to sell or lease, at retail, goods or services, including newspapers, periodicals, books, pamphlets or other similar written matter in a public space. This definition shall not include a food vendor as defined in subdivision c of section 17-306 of chapter three of title seventeen of this code, or a person required to be licensed under section 20-229 of subchapter seven of chapter two of this title of this code. This definition also shall not include persons who use stands or booths in a public space for the shining of shoes. This definition shall not include a pedicab driver licensed in accordance with subchapter nine of this chapter, who is operating a pedicab registered pursuant to subchapter nine and shall not include a pedicab owner licensed pursuant to such subchapter.

c. "General vending business" or "vending business". The business of selling, leasing or offering to sell or lease, at retail, goods or services other than food, engaged in by a general vendor in a public space.

d. "Public space". All publicly owned property between the property lines on a street as such property lines are

shown on the City Record including but not limited to a park, plaza, roadway, shoulder, tree space, sidewalk or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums and terminals.

e. "Pushcart". Any wheeled vehicle or device used by a general vendor in a public space, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles.

f. "Stand". A movable, portable or collapsible structure, framework, device, container or other contrivance, other than a vehicle or pushcart, used by a general vendor in a public space for the purpose of displaying, keeping or storing any merchandise or article required by him or her while acting as such vendor.

g. "Vehicle". A motor vehicle or trailer, as defined in the vehicle and traffic law.

h. "Vend". To hawk, peddle, sell, lease, offer to sell or lease, at retail, goods or services other than food in a public space.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended L.L. 19/2007 § 2, eff. Sept. 20, 2007.

Subd. b amended L.L. 14/1995 § 6, eff. Feb. 3, 1995.

Subd. b amended L.L. 65/1992 § 5, eff. July 23, 1992.

DERIVATION

Formerly § B32-490.0 added LL 77/1977 § 3

Sub f amended LL 50/1979 § 4

Sub d amended LL 33/1982 § 2

CASE NOTES

¶ 1. Street performer charging $5 to take photographs of people in front of a backdrop cloth on a city street is not a "general vendor" within the meaning of Ad Cd §20-452, nor does his product, a memorialization of his performance, fit the statutory language of "goods" or "services". People v. Bissinger, 163 Misc. 2d 667 [1994].

¶ 2. The court granted a preliminary injunction prohibiting the City from enforcing the statute. The law, which effectively barred visual artists from selling their paintings on the street, was too sweeping to pass muster under the First Amendment. Bery v. City of New York, 97 F.3d 689 (2nd Cir. 1996), cert. denied, 117 S. Ct. 2408.

¶ 3. Plaintiff challenged the City's regulation of his so-called "street photography." He uses a digital camera to photograph passers-by and produces prints for them right on the spot. In order to avoid arrest for obstructing traffic, plaintiff applied for permits from the Mayor's Office of Film, Theatre and Broadcasting. The City, however, took the position that plaintiff was a general vendor under Administrative Code §20-452, and that his business did not fall under the jurisdiction of the Mayor's film office. The court upheld the City's position that plaintiff was a general vendor. Although the photography was protected by the First Amendment, the City's regulations were content-neutral. Plaintiff alleged that his photography was no different from the work which falls under the Mayor's film office, but the court disagreed. The court distinguished between an application to conduct filming for a limited time frame and plaintiff's

attempt to interact with pedestrians every day in the most congested areas of the City. The government had a legitimate interest in keeping the streets safe and free of congestion, and the restrictions were narrowly tailored to achieve this goal, the court said. Under the City's regulations, plaintiff was permitted to take and sell photographs to tourists in such spots as St. Patrick's Cathedral or Rockefeller Center, so long as he did not set up a table, cart or similar device. The court noted that it was physically possible for plaintiff to carry his equipment without setting up a table. Although he did need his printer cart, the court said that it was possible for plaintiff to set up his cart on another street away from the congested area, leave his patrons on the street and come back when the pictures are done. Moreover, the court rejected plaintiff's contention that the statute was unconstitutionally vague. Baker v. City of New York, 2002 WL 31132880 (U.S. Dist.Ct. S.D.N.Y.).

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-453 License required.

It shall be unlawful for any individual to act as a general vendor without having first obtained a license in accordance with the provisions of this subchapter, except that it shall be lawful for a general vendor who hawks, peddles, sells or offers to sell, at retail, only newspapers, periodicals, books, pamphlets or other similar written matter, but no other items required to be licensed by any other provision of this code, to vend such without obtaining a license therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-491.0 added LL 77/1977 § 3

Amended LL 33/1982 § 3

CASE NOTES

¶ 1. Calendars and datebooks are not exempted from the licensing requirements as "newspapers, periodicals,

books, pamphlets or other similar written matter". These items were exempted in amendment by Local Law 33 of 1982 because they are used in the exchange of ideas and enjoy First Amendment protection. Further, the NYC Environmental Control Board erred in City of NY v. Hogan (appeal No. 0127, decided June 24, 1987) by equating "other similar written matter" with "printed material". People v. Shapiro, 139 Misc. 2d 344 [1988].

¶ 2. Artwork is not included in the exemption from licensing requirement of this section. Licensing sidewalk vendors serves a compelling purpose, the regulation of pedestrian traffic. People v. Milbry, 140 Misc. 2d 476 [1988].

¶ 3. A physically disabled veteran, who held a New York State veteran's license to "hawk, peddle and vend" merchandise, was still required to acquire the vendor's license required under the City law. People v. Miller, 150 Misc.2d 614, 569 N.Y.S.2d 1005 (Crim. Ct. New York Co. 1991).

¶ 4. §20-453 does not require that there be a completed sale or that there be customers for the items. Rather, it prohibits an individual from selling or offering to sell items without the appropriate licenses. Spreading out for display on a public street and showing the merchandise establishes the defendants were seeking to sell the items. People v. Diouf, 153 Misc.2d 887, 583 N.Y.S.2d 746 [1992].

¶ 5. Defendants were observed at mid-day at a location in Manhattan standing behind brief cases in which costume watches were spread out for sale to passersby. This is sufficient to establish they were engaged in vending and coupled with other factors such as the nature and number of the goods, the time, location and manner of display places them in violation of §20-453. People v. Sylla, 154 Misc. 2d 112 [1992].

¶ 6. A complaint charging that defendant acted as a general vendor without a license in violation of §20-453 is sufficient because merchandise was spread out for display on a public street, defendant was standing behind the display, items displayed were such that an individual would not generally have more than one of (watches), and the items were displayed in midtown Manhattan at 2:00 p.m., a busy place at a busy time. Complaint was sufficient even though defendant did not call out to any passerby or use any actual words of sale or mention any price. People v. Abdul, 157 Misc. 2d 511 [1993].

¶ 7. The unlicensed vending regulation, Ad Cd §20-453, requiring vendors to annually obtain a license to sell goods or services on the street is unconstitutional as applied to a street performer who charges $5 to take person's picture in front of a backdrop on a city street because the regulation is not limited as to the time, place and manner of defendant's expression. People v. Bissinger, 163 Misc. 2d 667, 163 Misc.2d 667, 625 N.Y.S.2d 823 [1994].

¶ 8. A person who, for a fee, took photographs of persons in public places was awarded an injunction prohibiting the city from enforcing the statutory provision which would have prohibited him from this activity unless he obtained a non-food vendor's license. The statute unconstituionally interfered with the right of free speech. See Bery v. City of New York, 97 F.3d 689 (2nd Cir. 1996) discussed in the annotations to § 20-452.

¶ 9. A misdemeanor complaint alleging unlicensed general vending was insufficient where it merely alleged that defendant was showing clothing to others. The complaint did not indicate how long and how often the showing was, and how many persons were shown the item. Moreover, it did not clearly indicate that this activity took place in a public place. Thus, the court dismissed the complaint with leave to file a second, properly drawn, complaint. People v. Montenez, 177 Misc.2d 506, 676 N.Y.S.2d 785 (Crim.Ct. New York Co. 1998).

¶ 10. An offer to sell even a single item is enough to constitute an offense under the statute. However, an accusatory instrument that alleges merely that defendant showed sunglasses he was holding to numerous people, was not sufficient. Instead, the information should have contained a description of defendant's behavior in showing goods to others, and should have indicated whether he manifested any interest in a sale of any kind, or should have alleged any other acts suggestive of a sale or intent to sell. Defendant here was not alleged to have said anything or have conveyed a message in any way. In other words, there was nothing that supported an inference that he intended to engage in commercial activity. In addition, the instrument was defective because although it contained an address where the

activity took place, it did not indicate whether the attempted sale took place inside the building or outside the building in a public place. Accordingly, the charges were dismissed. People v. Sene, N.Y.L.J., Aug. 25, 1998, page 27, col. 1 (Crim.Ct. New York Co.).

¶ 11. A misdemeanor complaint, which alleged that at a specific location and time, defendant hawked video tapes to various people, including the arresting officer, saying "ten dollar tapes," when taken together with the officer's deposition, was sufficient to support a misdemeanor charge. People v. Gonzalez, 184 Misc.2d 262, 708 N.Y.S.2d 564 (App.Div. 1st Dept. 2000).

¶ 12. An accusatory instrument charging defendant with selling merchandise on the street without a general vendor's license, together with the accompanying supporting deposition from the police officer, were sufficient, where they alleged that defendant was observed standing behind a display of objects spread out on a public sidewalk, holding out such items to people passing on the street and indicating the price for such items, and that defendant was also observed exchanging a pack of batteries with a passerby for an unknown amount of money. It was not necessary to have a supporting deposition from the Department of Consumer Affairs; the fact that the defendant failed to exhibit on demand a general vendor's license was considered presumptive evidence that this general vendor was not licensed. People v. Vega, N.Y.L.J., Nov. 20, 2000, page 30, col. 2 (Crim.Ct. Bronx Co.)

¶ 13. In one case the defendant was charged with selling playing cards on the street without a general vendor's license. The court upheld as sufficient a complaint alleging that defendant was engaged in offering for sale more than ten decks of cards on a table, that defendant was standing behind the table for at least five minutes, and that defendant took money from a customer in exchange for a deck of cards.

The cards in question depicted military and political figures associated with the war in Iraq. As a result, the defendant claimed that the sale of the cards was an exercise of First Amendment rights and therefore exempt from the licensing requirement. The court, however, held that the sale of the cards was not protected by the First Amendment, in that they were neither a written expression nor art. Although the cards had the pictures, names and titles of the people, they did not express a point of view either for or against the war, nor did they contain words either praising or condemning any of the people. The words used had no substance and merely served to identify the persons depicted. The cards were designed either to be used for playing card games for to serve as collectibles. According to the court, collectibles were distinguishable from art and did not differ from ordinary merchandise. The court likened the sale of cards to the sale of Statue of Liberty miniatures to tourists. Although the Statute of Liberty symbolizes the freedom and opportunity provided in this country, the miniatures, like the cards, were sold as personal memorabilia and not as political items. The court gave a further analogy-if one were to sell sweaters having an American flag design, the sweater would still be primarily a fashion item rather than a political item, even though the flag is viewed as a symbol of American freedom.

It is difficult to formulate rule that would clearly distinguish political expression from political items. It is arguable that if the cards had said, for example, "support our troops in Iraq" or "U.S. imperialists should get out of Iraq, " their sale would have been protected by the First Amendment. People v. Saul, 3 Misc.3d 260, 776 N.Y.S.2d 189 (Crim.Ct. 2004).

¶ 14. An information, comprising a misdemeanor complaint and a police officer's supporting deposition, alleged that at a specific time and location, defendant, lacking the requisite license, displayed and offered for sale more than 10 assorted compact discs for sale while standing immediately behind a shopping cart in which the merchandise was offered for sale; that defendant was the only person who was continuously in immediate proximity to the merchandise, and that defendant showed the merchandise to numerous people. The court held that these factual allegations, given a fair and not overly restrictive or technical reading, were sufficient for pleading purposes to establish reasonable cause to believe and a prima facie case that defendant violated the general vending ordinance. It was not necessary for the accusatory instrument to describe the precise manner in which the merchandise was offered for sale or the precise number of people to whom it was offered for sale. People v. Yu, 2004 WL 1462510 (App.Term 1st Dept.).

¶ 15. A person who sells films in DVD format is deemed to be a "visual artist." Thus Admin. Code §20-453 is unconstitutional as applied to him, because the law violates the First Amendment. Accordingly, the film seller was not required to have a general vendor's license. People v. Fucile 5/13/04 NYLJ Pg. 19 col 1 (Crim.Ct. New York Co.).

¶ 16. Where the evidence showed that defendant, who was standing immediately behind a shopping cart, positioned a cardboard box on the top of a cart containing DVD's, which defendant showed to numerous pedestrians, and it appeared that defendant did not have the required license, the evidence was sufficient to establish the elements of a violation of the licensing laws governing general vendors. People v. Fong Chen, 2008 NY Slip Op. 51381U, 2008 N.Y. Misc. Lexis 4099 (App. Term 1st Dept.).

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-454 License term; fees.

a. All licenses issued pursuant to this subchapter shall be valid for one year unless sooner suspended or revoked. The commissioner shall establish by regulation the expiration date of such licenses.

b. The commissioner may issue a temporary license upon the furnishing of information and an application in such form and detail as he or she may prescribe and upon the payment of a fee of ten dollars for such temporary license.

c. The annual license fee for a license or a renewal thereof shall be two hundred dollars.

d. The fee for issuing a duplicate license when the original has been lost, destroyed or mutilated shall be ten dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-492.0 added LL 77/1977 § 3

Sub a amended LL 50/1979 § 5

Sub c amended LL 30/1983 § 14

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-455 Applications.

a. Each person applying for a general vendor's license or renewal thereof shall file an application in such form and detail as the commissioner may prescribe and, unless exempted by article four of the general business law, shall pay the fee required by this subchapter.

b. In addition to any other information required, the commissioner shall require the following information:

1. The name and home address of the applicant and the name and address of the owner, if other than the applicant, of any vehicle, pushcart, stand or goods to be used in the vending business.

2. A description of the type of goods or services to be vended or displayed and a description of any vehicle, pushcart or stand to be used in the vending business.

3. Three prints of a full-face photograph of the applicant taken not more than thirty days prior to the date of the application.

4. Proof that the applicant has complied with all applicable laws, including compliance with section eleven hundred thirty-four of the tax law by obtaining from the state tax commission of the state of New York a certificate of authority designating the applicant's sales tax identification number and a tax clearance certificate.

5. An applicant who is a non-resident of the city shall provide the name and address of a registered agent within the city or designate the commissioner as his or her agent upon whom process or other notification may be served.

6. No City officer or employee shall inquire about an applicant's immigration or citizenship status as part of an application made pursuant to this section. Information about an applicant's immigration or citizenship status shall not affect the consideration of the application for a general vendor's license or renewal thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b par 6 repealed and added L.L. 66/2005 § 3, eff. Aug. 10, 2005.

[See § 17-309 Note 1]

DERIVATION

Formerly § B32-493.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-455.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-455.1 Domestic Partners.

For purposes of this subchapter, the rights and benefits bestowed upon the surviving spouse of an honorably discharged member of the armed forces of the United States pursuant to article four of the general business law shall also be bestowed upon the surviving domestic partner of any such veteran.

HISTORICAL NOTE

Section added L.L. 27/1998 § 22, eff. Sept. 5, 1998.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-456

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-456 License approval or denial.

a. Upon the approval of an application the commissioner shall issue a license to the applicant.

b. The commissioner may refuse to issue or renew a license if the applicant has been found to have violated chapter one or subchapter one of chapter five of this title or the rules or regulations thereto, provided, however, that in the event of a conflict between the provisions of such chapter and subchapter and the provisions of this subchapter, the provisions of this subchapter shall prevail; has pending any unanswered summonses or unsatisfied fines or penalties for violation of this subchapter or the regulations promulgated thereto; or for any cause set forth in any other section of this chapter as a ground for suspension or revocation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-494.0 added LL 77/1977 § 3

Sub a amended LL 51/1979 § 7

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-457

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-457 License renewal.

a. An application for the renewal of a license shall be filed with the appropriate fee, with a tax clearance certificate issued by the state tax commission of the state of New York, and with a tax clearance certificate issued by the commissioner of finance of the city of New York, in such form and containing such information as he or she shall require, indicating payment of all applicable taxes imposed by title eleven of this code and administered by the commissioner of finance, at least thirty days prior to the expiration of the existing license. The commissioner of finance shall charge and collect a fee of ten dollars for issuing a tax clearance certificate.

b. No licensee shall be granted a renewal of a license unless the licensee is in compliance with the rules and regulations promulgated by the commissioner of finance pursuant to subdivision c of this section; provided, however, that the commissioner may excuse such failure which results from illness or disability.

c. The commissioner of finance shall promulgate rules and regulations establishing (1) such standards of sales tax payments sufficient to indicate that operating as a general vendor is a full-time or part-time occupation of the licensee and (2) that a minimum payment of all applicable sales and business taxes imposed by title eleven of the code and administered by the commissioner of finance have been paid during the preceding calendar year.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. a amended L.L. 33/1987 § 2.

DERIVATION

Formerly § B32-495.0 added LL 77/1977 § 3

Amended LL 54/1982 § 2

Amended LL 17/1983 § 19

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-458

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-458 Exemptions.

The commissioner may promulgate regulations exempting any non-profit association including, but not limited to, a government agency, charitable, educational, religious or other such organization from compliance with any of the provisions of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-496.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

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NYC Administrative Code 20-459

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-459 New licenses; existing licenses.

a. The number of licenses in effect pursuant to this subchapter on the first day of September, nineteen hundred seventy-nine shall be the maximum number of licenses permitted to be in effect.

b. A license issued pursuant to this subchapter shall be renewable by the licensee upon its expiration or within sixty days of its expiration provided the licensee meets all other requirements for renewal, provided that the license has not been revoked, and provided that the licensee has not committed violations which could be a basis for license revocation under any provision of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-497.0 added LL 77/1977 § 3

Repealed and added LL 50/1979 § 6

(legislative findings, prevent congestion, LL 50/1979 § 1)

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-460

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-460 Hearings.

Unless otherwise specifically provided, notice and hearings upon denial of an application, the suspension or revocation of a license or the imposition of penalties provided in subdivision b of section 20-472 shall be in accordance with the provisions of chapter one of this title and the rules and regulations applicable thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-498.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

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NYC Administrative Code 20-461

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-461 Display of license.

a. Each general vendor shall carry his or her license on his or her person and it shall be exhibited upon demand to any police officer, authorized officer or employee of the department or other city agency.

b. The general vendor's license shall contain his or her name, his or her license number and a non-removable photograph of the licensee. It shall be worn conspicuously by him or her at all times while he or she is operating as a general vendor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-499.0 added LL 77/1977 § 3

Amended LL 51/1979 § 8

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-462

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-462 Notification of change.

Whenever any information provided on the application for a license or renewal thereof has changed the licensee shall notify the commissioner within ten days of such change.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-500.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-463

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-463 Bookkeeping requirements.

Each general vendor shall keep such written records as the commissioner may prescribe of all daily gross sales, purchases and expenses and receipts therefor and shall make such available for inspection by an authorized officer or employee of any city agency.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-501.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-464

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-464 Duties of licensees.

Each licensed general vendor shall:

a. Permit regular inspections by the department or any authorized city agency of any goods, vehicle, pushcart or stand used in the operation of the vending business, and of any premises used by him or her for the storage or preparation of goods intended to be vended in such business;

b. Provide to the commissioner, or other authorized officer or employee of a city agency requesting such information, on a semi-annual basis, or more often if required by regulation promulgated by the Commssioner, the address and name of the owners or the manufacturers, suppliers or distributors from whom the licensee receives his or her goods and also the address at which the licensee stores his or her goods or any vehicle, pushcart or stand used in the operation of the vending business;

c. Not use or permit anyone else to use a vending vehicle, pushcart or stand for the sale or lease of any goods or merchandise prohibited by the commissioner;

d. Not sell, lend, lease or in any manner transfer his or her license or any interest therein unless prior approval of the commissioner has been obtained.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. b amended L.L. 112/1989 § 2.

DERIVATION

Formerly § B32-502.0 added LL 77/1977 § 3

Subs d, e amended LL 51/1979 § 9

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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NYC Administrative Code 20-465

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-465 Restrictions on the placement of vehicles, pushcarts and stands; vending in certain areas prohibited.

a. No general vendor shall engage in any vending business on any sidewalk unless such sidewalk has at least a twelve-foot wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk, or if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.

b. No general vendor shall occupy more than eight linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no general vendor operating any vending business on any sidewalk shall occupy more than three linear feet to be measured from the curb toward the property line.

c. No vending vehicle, pushcart, stand, goods or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure including, but not limited to lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers.

d. No vending pushcart, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within twenty feet from an entranceway to any building, store, theatre, movie house, sports arena or other place of public assembly.

e. No general vendor shall vend within any bus stop or taxi stand, or within ten feet of any driveway, any subway entrance or exit, or any corner. For purposes of this subdivision, ten feet from any corner shall be measured from a point where the property line on the nearest intersecting block face, when extended, meets the curb.

f. Each general vendor who vends from a pushcart or stand in the roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a general vendor vend so as to restrict the continued maintenance of a clear passageway for vehicles.

g. (1) No general vendor shall vend on any street which is in a C4, C5, or C6 zoning district, or in the area bounded on the east by Second Avenue, on the south by Thirtieth Street, on the west by Ninth Avenue and Columbus Avenue and on the north by Sixty-fifth Street, except that as chairperson of the street vendor review panel established pursuant to section 20-465.1 of this subchapter, the commissioner of the department of small business services or his or her designee may receive applications from any person, group, organization or other entity to permit general vendors on any street within said area or said zones, or to prohibit general vendors on any other street. Such applications shall be considered by the street vendor review panel in accordance with the procedures enumerated in section 20-465.1 of this subchapter.

(2) No general vendor shall vend on any street which is in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street and on the north by the northerly side of Vesey Street.

(3) Upon issuance of a new general vendor license or a renewal of an existing license, the commissioner shall provide a copy of subchapter twenty-seven of chapter two of this title and of the rules of the city of New York implementing such subchapter to such new or renewal licensee.

h. Reserved.

i. No general vendor shall vend on the median strip of a divided roadway unless such strip is intended for use as a pedestrian mall or plaza.

j. No general vendor shall vend within the geographical areas under the jurisdiction of the department of parks and recreation unless written authorization therefor has been obtained from the commissioner of such department, but nothing therein contained shall exempt any general vendor from obtaining a license in accordance with this subchapter.

k. Where exigent circumstances exist and a police officer or other authorized officer or employee of any city agency gives notice to a general vendor to temporarily move from any location such general vendor shall not vend from such location. For the purposes of this subdivision, exigent circumstances shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public space, an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

l. Reserved.

m. No general vendor shall vend over any ventilation grill, cellar door, manhole, transformer vault, or subway access grating.

n. No general vendor shall vend using the surface of the sidewalk, or a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise. No general vendor display may exceed five feet in height from ground level. The display may not be less than twenty-four inches above the sidewalk where the display surface is parallel to the sidewalk, and may not be less than twelve inches above the sidewalk where the display surface is vertical. Where a rack or other display structure is placed on top of or above a table or other base, the size of the base shall not be less than the size of the display structure placed thereon. Nothing shall be placed on the base so as to exceed the size limitations contained in this section. No general vendor shall use any area other than that

area immediately beneath the surface of the display space for the storage of items for sale.

o. No general vendor shall sell or offer for sale any item directly from any parked or double parked motor vehicle.

p. No general vendor shall use electricity, electrical generating equipment or oil or gasoline powered equipment, devices or machinery of any kind.

q. No general vendor shall vend:

1. within twenty feet from sidewalk cafes;

2. within five feet from (a) bus shelters, (b) newsstands, (c) public telephones or (d) disabled access ramps; and

3. within ten feet from entrances or exits to buildings which are exclusively residential at the street level.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. b amended L.L. 112/1989 § 3.

Subd. e amended L.L. 112/1989 § 4.

Subd. g amended chap 11/2004 § 5, eff. Mar. 5, 2004 and retroactive to Feb. 28, 2003.

Subd. g amended L.L. 34/2002 § 13, eff. Nov. 7, 2002.

Subd. g amended L.L. 14/1995 § 7, eff. Feb. 3, 1995.

Subd. g par (3) added L.L. 39/2006 § 12, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Subd. l repealed L.L. 14/1995 § 8, eff. Feb. 3, 1995.

Subd. m, n, o, p, q added L.L. 112/1989 § 5. [See note.]

DERIVATION

Formerly § B32-503.0 added LL 77/1977 § 3

Sub l added LL 50/1979 § 7

Sub h repealed LL 33/1982 § 4

Sub l pars 1, 3 amended LL 17/1983 § 18

NOTE

Provisions of L.L. 112/1989

Section one. Legislative findings and declaration. The Council hereby finds and declares that existing

regulations on location and spacing of general vendors are inadequate to maintain a clear path for pedestrians, especially near entrances, corners, and sidewalk fixtures such as bus shelters and public telephones. The Council also finds that the maximum size of each vendor's display must be reduced and its maximum and minimum height delimited, to avoid hazards to pedestrians and blockage of access from the street to the sidewalk. The Council also finds and declares that enforcement of these provisions will be best achieved by providing criminal sanctions for their violation.

CASE NOTES

¶ 1. See Lederman v. Giuliani, 2001 WL 902591 (U.S. Dist. Ct. S.D.N.Y.), discussed in 20-473.

¶ 2. A plaintiff sued to recover damages allegedly attributable to the destruction of certain architectural artifacts to which it had obtained salvage rights by contract.

Defendant Big Apple Wrecking and Construction Corp. (Big Apple) contended that the salvage contract on which plaintiff relied was unenforceable because plaintiff was not a licensed dealer in second-hand articles. The court, however, held that the defense was not viable. Even if there were a violation of the law, the violation would be **malum prohibitum** rather than **malum in se.** The violation was punishable by means of prescribed regulatory sanctions. The Code may not be used as a sword for private gain in litigation, particularly where forfeiture would result. Stardial Communications, Inc. v. Turner Construction Co., 12 A.D.3d 181, 784 N.Y.S.2d 57 (1st Dept. 2004).

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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NYC Administrative Code 20-465.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-465.1 Street vendor review panel.

a. There is hereby established a street vendor review panel consisting of four members. Such panel shall include the commissioner of the department of small business services, the director of the department of city planning and the commissioner of the department of transportation, or their respective designees. Such panel shall also include a member appointed by the mayor upon nomination by the speaker of the council. The commissioner of the department of small business services or his or her designee shall serve as chairperson. The departments of small business services, city planning and transportation shall provide such assistance as the street vendor review panel deems necessary and appropriate to enable such panel to carry out its responsibilities. In the same manner as provided in section 1043 of the city charter, the street vendor review panel shall promulgate, and may from time to time amend, rules prohibiting the operation of any general vending business or food vending business, as defined in chapter three of title seventeen of this code, or both, on any street, at any time, after making a determination that such vending business would constitute a serious and immediate threat to the health, safety and well-being of the public on the ground that such street at such time is regularly too congested by pedestrian or vehicular traffic to permit the operation of such business. No general vendor or food vendor, as defined in chapter three of title seventeen of the code, shall vend on any such streets at any such times.

b. Requests for the adoption or amendment of rules prohibiting the operation of any general vending business or food vending business, as defined in chapter three of title seventeen of this code, or both, on any street, at any time, may be submitted to the commissioner of the department of small business services or his or her designee. Within sixty days

after the submission of such request, the street vendor review panel shall convene to determine either to deny such request in writing, stating the reasons for denial, or to state its intention to initiate rulemaking, by a specified date, concerning the subject of such request. In initiating a rulemaking, the panel shall not be bound by the streets or times requested, and may modify such streets and such times at its discretion. If the panel has stated the intention to initiate rulemaking, it shall publish such proposed rule for comment and public hearing in the same manner as provided in subdivisions b and d of section 1043 of the city charter. After consideration of the relevant comments presented, the panel may adopt a final rule relating to such streets and such times pursuant to subdivisions d and e of section 1043 of the city charter.

c. Copies of any rules promulgated pursuant to this section shall be mailed to each licensed general vendor or licensed food vendor, by the department or the department of health and mental hygiene, respectively, by regular mail at the last home address provided by the vendor to the department or the department of health and mental hygiene and shall be annexed to each license or renewal issued to any general vendor or food vendor.

d. Nothing herein contained shall exempt any general vendor from the provisions of subdivision g of section 20-465 of this subchapter.

HISTORICAL NOTE

Section added L.L. 14/1995 § 9, eff. Feb. 3, 1995.

Subds. a, b amended L.L. 34/2002 § 14, eff. Nov. 7, 2002.

Subd. c amended L.L. 22/2002 § 44, eff. July 29, 2002 and deemed in

effect as of July 1, 2002.

CASE NOTES

¶ 1. Big Apple Food Vendors Association v. Street Vendor Review Panel, 637 N.Y.S.2d 397 (App.Div. 1st Dept. 1996). The statute requires a street-by-street analysis, rather than City-wide restrictions on street vending. The Panel can place new restrictions on street vending or eliminate or modify restrictions, based on a finding that the operation of vending businesses at certain times and places would create a threat to health and safety because the street is too congested to permit the operation of the business. Here, where petitioner challenged the Panel's rules prohibiting street vending on 26 new streets which had not been previously regulated, the court granted the Article 78 petition to the extent of remanding the case to the Panel and directing the Panel to establish objective criteria for determining whether a street was "too congested" at particular times to permit street food vending.

¶ 2. Big Apple Food Vendors Association v. Street Vendor Review Panel, 90 N.Y.2d 402, 660 N.Y.S.2d 846 (1997), reverses the Appellate Division decision previously reported. The court held that the Street Vendor Review Panel promulgated a sufficiently clear rule- the panel determines whether street vending operations at a given street location would endanger public safety because "such street at such time is regularly too congested by pedestrian or vehicular traffic to permit the operation of such business."

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-466

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-466 Prohibitions.

It shall be unlawful for any person to sell, give or otherwise transfer any goods or merchandise to an unlicensed general vendor for resale in a public space or to rent or otherwise knowingly transfer any vehicle, stand or pushcart for use by an unlicensed general vendor in a vending business in a public space.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-504.0 added LL 77/1977 § 3

CASE NOTES

¶ 1. Subdivision h of this section providing that "no sidewalk general vendor shall operate within twenty feet of any other vendor" was held unconstitutionally vague for failure to indicate clearly "which of the two vendors would be violating the statute, should they come within 20 feet of each other, nor does it specify which vendor would be required to move".-People v. Christian, 96 Misc. 2d 1109, 410 N.Y.S. 2d 513 [1978].

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-467

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-467 Suspension and revocation of license.

Any license issued pursuant to the provisions of this subchapter may be suspended or revoked by the commissioner upon notice and hearing for any of the following causes:

a. Fraud, misrepresentation, or false statements contained in the application for the license;

b. Violation of chapter one or subchapter one of chapter five of this title of this code or the regulations promulgated thereto; provided, however, that in the event of a conflict between the provisions of such chapter and subchapter and the provisions of this subchapter, the provisions of this subchapter shall prevail;

c. Fraud, misrepresentation, or false statements made in connection with the selling or leasing of any goods or services;

d. Four or more violations of any provision of this subchapter or the regulations promulgated thereto in a two-year period;

e. Failure to answer a summons or notice of violation, appear for a hearing, or pay a fine or civil penalty imposed pursuant to the provisions of this subchapter or the regulations promulgated hereunder;

f. Conviction of possessing or selling stolen property pursuant to section 165.40, 165.45 or 165.50 of the penal

law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-505.0 added LL 77/1977 § 3

Sub e amended LL 51/1979 § 10

CASE NOTES

¶ 1. In proceeding to review determination of Commissioner of Department of Consumer Affairs which revoked petitioners' general vendor's license, revocation was upheld where Environmental Control Board printout showed the issuance of 27 summonses issued to petitioner and petitioner's default on them, and petitioner did not contest either the issuance of the tickets or his own default and hence there was adequate evidence to support conclusion that petitioner had four or more violations of the General Vendor Law in a two year period.-Barnes v. Ratner, 57 N.Y. 2d 942 [1983], reversing, 89 App. Div. 2d 514.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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NYC Administrative Code 20-468

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-468 Enforcement.

a. Authorized officers and employees of the department and members of the police department shall have the power to enforce all laws, rules and regulations relating to general vendors. This provision shall in no way restrict any other power granted by law to an officer or employee of any city agency.

b. If a general vendor does not move his or her goods, vehicle, pushcart or stand when directed to do so by a police officer or other authorized officer or employee of the city in compliance with the provisions of subdivision k of section 20-465 such officer or employee is authorized to provide for the removal of such goods, vehicle, pushcart or stand to any garage, automobile pound or other place of safety, and the owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand or goods may be charged with reasonable costs for removal and storage payable prior to the release of such goods, vehicle, pushcart or stand.

c. Any police officer may seize any vehicle, pushcart or stand or other such device used by an unlicensed general vendor in violation of section 20-453 including a vehicle, pushcart or other such device used to transport goods sold, given or otherwise transferred to an unlicensed general vendor in violation of section 20-466 of this subchapter and may seize any goods which are being sold by an unlicensed general vendor in violation of section 20-453 and such vehicle, pushcart, stand or goods or other device shall be subject to forfeiture upon notice and judicial determination. If a forfeiture proceeding is not commenced, the owner or other person lawfully entitled to the possession of such goods, vehicle, pushcart, or stand or other device may be charged with the reasonable cost for removal and storage payable

prior to the release of such goods, vehicle, pushcart, or stand or other device, unless the charge of unlicensed vending has been dismissed.

d. If a general vendor operates any general vending business in violation of the provisions of section 20-465.1 of this subchapter and any rules promulgated pursuant thereto on any such street and at any such time as the street vendor review panel has determined to be regularly too congested by pedestrian or vehicular traffic to permit the operation of any general vending business thereat without there being a serious and immediate threat to the health, safety and well-being of the public, or if a general vendor operates any such business in the area designated in paragraph two of subdivision g of section 20-465 of this subchapter, any authorized officer or employee of the department or member of the police department is authorized to provide for the removal of such general vendor's goods, vehicle, pushcart or stand to any garage, automobile pound or other place of safety, and such goods, vehicle, pushcart or stand may be subject to forfeiture upon notice and judicial determination. If a forfeiture hearing is not commenced, the owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand or goods may be charged with reasonable costs for removal and storage payable prior to the release of such goods, vehicle, pushcart or stand.

e. Any police officer may seize any vehicle, pushcart, stand or goods of a vendor operating any general vending business in violation of the following subdivisions of section 20-465: subdivisions b, e, i, or the provisions of subdivision m relating to obstruction of ventilation grilles. The owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand, or goods may be charged with reasonable costs for removal and storage payable prior to the release of such vehicle, pushcart, stand or goods, unless the violation has been dismissed.

f. If a general vendor who exclusively vends written matter conducts such business with the use of a vehicle, pushcart or stand, or using the surface of the sidewalk, or a blanket or board placed immediately on the sidewalk or on top of a trash receptacle or cardboard boxes to display merchandise, on any street and at any time where both (i) general vending is prohibited pursuant to section 20-465.1 of this subchapter and any rules promulgated thereunder or paragraph two of subdivision g of section 20-465 of this subchapter; and (ii) food vending is prohibited pursuant to section 20-465.1 of this subchapter and any rules promulgated thereunder or pursuant to subdivision k or 1 of section 17-315 of this code, any authorized officer or employee of the department or member of the police department is authorized to provide for the removal of such general vendor's goods, vehicle, pushcart or stand to any garage, automobile pound or other place of safety.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. c amended L.L. 40/1988 § 2. See Note after § 20-472.

Subd. d amended chap 11/2004 § 6, eff. Mar. 5, 2004 and retroactive to

Feb. 28, 2003.

Subd. d amended L.L. 14/1995 § 10, eff. Feb. 3, 1995.

Subd. d amended L.L. 64/1990 § 2, eff. Nov. 10, 1990.

Subd. e added L.L. 64/1990 § 3, eff. Nov. 10, 1990. See Note below.

Subd. f amended chap 11/2004 § 7, eff. Mar. 5, 2004 and retroactive to

Feb. 28, 2003.

Subd. f amended L.L. 14/1995 § 11, eff. Feb. 3, 1995.

Subd. f added L.L. 45/1993 § 2, eff. June 1, 1993.

DERIVATION

Formerly § B32-506.0 added LL 77/1977 § 3

Amended LL 50/1979 § 8

NOTE

Provisions of L.L. 64/1990 § 1.

Section one. Legislative findings and intent. The Council of the city of New York hereby finds that the violation of certain laws pertaining to placement of general vendors on city streets creates unsafe conditions which must be ameliorated as soon as they are discovered. Illegal intrusion into pedestrian areas near crosswalks and bus stops and on median strips creates conditions which are likely to force pedestrians into the street and dangerously alter traffic patterns. Vendors who illegally vend close to subway exits present a hazard of blockage of the egress, which must remain clear for the periods of extremely heavy traffic immediately following the discharge of a train. Vendors who illegally occupy a greater space on the sidewalk than allowed by law interfere with established safe levels of pedestrian flow. Vendors who place goods covering ventilation grates are preventing needed air circulation. All of these conditions must be corrected as soon as they are discovered, to remove the hazard to public safety, and thus enforcement personnel must be given the power to seize the goods of such illegally operating vendors. In addition, where vendors are illegally selling on streets for which vending has been prohibited by law or regulation because such streets have been found to be regularly too congested to permit safe vending, the goods seized from such illegal vendors must be subject to forfeiture, to deter such persistent illegal and unsafe activity. Therefore the Council finds that it is necessary to enhance the statutory authority given to enforcement personnel to seize vendors' goods where placement creates unsafe conditions and to seek forfeiture of goods seized from vendors illegally selling on prohibited streets.

Provisions of L.L. 45/1993 § 1

Section 1. Legislative findings. The council hereby finds and declares that a threat to the public health, safety and welfare exists due to the practice of permitting general vendors who exclusively vend written matter to vend on sidewalks without subjecting them to certain placement and location restrictions which have been found to be necessary to protect the health, safety and welfare of the public. The council further finds that this threat to the public health, safety and welfare is exacerbated by the placement of vending tables and similar devices on sidewalks along major commercial thoroughfares, blocking the access of emergency services, including fire and police personnel, to the entrances of buildings and to fire hydrants; impeding pedestrian movement and causing pedestrian congestion at major tourist points and transportation facilities; and, impeding the movement of police foot patrols along the sidewalks.

In 1982 the council exempted general vendors who exclusively vend written matter from otherwise applicable placement and location requirements. At that time there were so few of these vendors that their exclusion from these requirements did not have a significant adverse impact on public health, safety and welfare. Subsequently, when the council prohibited all general vendors from displaying and vending from the surface of sidewalks, vendors of written material were included in this prohibition. However, the council finds that since that time, the enormous proliferation of these vendors necessitates that certain of the restrictions applicable to other vendors, such as those prohibiting them from operating near subway and building entrances and exits and those which restrict vending on certain congested streets, now be made applicable to vendors who exclusively vend written matter.

The council further finds that in keeping with its original intention in enacting these exemptions to balance the safety needs of the public with the constitutional rights of vendors of written materials, vending from tables, carts, stands or other such devices should be prohibited at such times and on such blocks that have been previously found, or that are found in the future, after a hearing, to be regularly too congested to permit any other vending. Thus, the council

further declares that the policy of the city of New York shall be that vending written matter without a vehicle, table, stand, cart or other similar device shall be lawful on sidewalks, in accordance with existing limitations, unless exigent circumstances exist, and that vending with the use of a vehicle, table, cart, stand or other similar device shall be lawful on blocks and at times where either food vending or general vending is permitted, provided the table, stand, cart or other similar device used by the vendor of written materials occupies no greater sidewalk space than that permitted for other general vendors.

CASE NOTES FROM FORMER SECTION

¶ 1. Forfeiture of goods seized by police from unlicensed vendor (subd. c) is constitutional.-N.Y.C. v. Calabrese, 190 (106) N.Y.L.J. (12-5-83), 13, Col. 4T.

CASE NOTES

¶ 1. A lienholder on a seized van lacked standing to challenge the constitutionality of the notice provision of the forfeiture statute. City of New York v. Salomon, 161 A.D.2d 470, 555 N.Y.S.2d 380 (1st Dept. 1990).

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-469

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-469 Forfeiture.

a. Notice of the institution of the forfeiture proceeding shall be in accordance with the provisions of the civil practice law and rules.

b. The police department having custody of the seized property, after judicial determination of forfeiture shall, upon a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of such sale shall be paid into the general fund of the city. In the alternative, any such property may be used or converted to use for the purpose of any city, state or federal agency, or for charitable purposes, upon consultation with the human resources administration and other appropriate city agencies, and the police commissioner shall report annually to the city council on the distribution of such property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-507.0 added LL 77/1977 § 3

Sub b amended LL 57/1983 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-470

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-470 Seizure of perishable goods.

In the event that any seizure made pursuant to this subchapter shall include any perishable items or food products which cannot be retained in custody without such items or food products becoming unwholesome, putrid, decomposed or unfit in any way, they may be delivered to the commissioner of health for disposition pursuant to the provisions of section 17-323 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-508.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-471

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-471 Regulations.

The commissioner shall make such regulations as deemed necessary for the proper implementation and enforcement of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-509.0 added LL 77/1977 § 3

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-472

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-472 Penalties.

a. Any person who violates the provisions of sections 20-453 and 20-474.1 of this subchapter shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars, or by imprisonment for not more than three months or by both such fine and imprisonment. In addition, any police officer may seize any vehicle used to transport goods to a general vendor, along with the goods contained therein, where the driver is required to but cannot produce evidence of a distributor's license. Any vehicle and goods so seized may be subject to forfeiture upon notice and judicial determination. If a forfeiture proceeding is not commenced, the owner or other person lawfully entitled to possession of such vehicle and goods may be charged with the reasonable cost for removal and storage payable prior to the release of such vehicle and goods, unless the charge of unlicensed distributing has been dismissed.

b. Except as provided in subdivision a of this section, a person who violates any provision of this subchapter or any of the rules or regulations promulgated hereunder shall be guilty of an offense punishable by the court as follows:

1. For a first violation, a fine of not less than twenty-five dollars nor more than fifty dollars.

2. For a second violation within a period of two years of the date of a first violation, a fine of not less than fifty dollars nor more than one hundred dollars.

3. For a third violation within a period of two years of the date of a first violation, a fine of not less than one hundred dollars nor more than two hundred fifty dollars.

4. For any subsequent violations within a period of two years of the date of a first violation, a fine of not less than two hundred dollars nor more than one thousand dollars.

c. 1. In addition to the penalties prescribed by subdivision a of this section, any person who violates, or any person aiding another to violate, the provisions of section 20-453 of this subchapter shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars together with a penalty of two hundred fifty dollars per day for every day during which the unlicensed business operated.

2. In addition to the penalties prescribed by subdivision b of this section, any person who violates any provision of this subchapter, other than section 20-453, or any of the rules or regulations promulgated hereunder shall be liable for a civil penalty as follows:

(a) For a first violation, a penalty of not less than twenty-five dollars nor more than fifty dollars.

(b) For a second violation within a period of two years of the date of a first violation, a penalty of not less than fifty dollars nor more than one hundred dollars.

(c) For a third violation within a period of two years of the date of a first violation, a penalty of not less than one hundred dollars nor more than two hundred fifty dollars.

(d) For any subsequent violations within a period of two years of the date of a first violation, a penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

d. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision c of this section shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board. The board shall have the power to impose the penalties prescribed by subdivision c of this section.

e. Any person who violates the provisions of sections 20-465 and 20-465.1 of this subchapter and any rules promulgated thereunder shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. a amended L.L. 63/1990 § 1, eff. Nov. 10, 1990.

Subd. a amended L.L. 113/1989 § 2.

Subd. a amended L.L. 40/1988 § 3.

Subd. c par 1 amended L.L. 40/1988 § 4.

Subd. e amended L.L. 14/1995 § 12, eff. Feb. 3, 1995.

Subd. e added L.L. 112/1989 § 6.

DERIVATION

Formerly § B32-510.0 added LL 77/1977 § 3

Repealed and added LL 51/1979 § 11

NOTE

Note provisions of L.L. 40/1988.

Section one. Legislative declaration of intent.-The Council hereby finds and declares that the public health, safety and welfare are threatened by the unfettered use of city streets for commercial activity by unlicensed, and therefore illegal, general vendors. Such illicit operations have a pernicious effect on both the tax base and economic viability of the City. Unlicensed general vendors do not pay taxes, often sell stolen, defective or counterfeit merchandise and siphon off business from reputable, tax-paying commercial establishments. The practice of selling their wares on the most congested streets of the City impedes the flow of pedestrian traffic, causing the overflow of traffic and, at worst, it creates the potential for tragedy. In recognition of the judgment that licensed and regulated general vendors are a legitimate part of the municipal economy, the council has in the past adopted legislation to limit the number of permitted vendors and to permit the seizure of goods, vehicles, pushcarts or stands used by unlicensed vendors. It is the intent of the council, through this local law, to make more effective the weapons in the city's enforcement arsenal by making clear that the existing law with respect to the seizure of vehicles, pushcarts or other devices used by unlicensed general vendors was intended to permit the seizure of vehicles, pushcarts or other devices used to transport goods which are sold, given or otherwise transferred to an unlicensed general vendor.

§ 5. Within ninety days of the effective date of this local law, the commissioner of consumer affairs and the police commissioner shall submit to the council a joint written report on their program to enforce section 20-453 of the administrative code of the city of New York.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-473

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-473 Exemptions for general vendors who exclusively vend written matter.

General vendors who exclusively vend written matter are exempt from the following provisions of this subchapter: sections 20-454, 20-455, 20-456, 20-457, 20-459, 20-461, 20-462, 20-463 and 20-464; paragraph one of subdivision g of section 20-465; subdivision j of section 20-465, except that nothing herein shall be construed to deprive the commissioner of the department of parks and recreation of the authority to regulate the vending of written matter in a manner consistent with the purpose of the parks and the declared legislative intent of this subchapter; section 20-465.1 and any rules promulgated thereunder, except that on any street where both general vending is prohibited pursuant to section 20-465.1 of this subchapter and any rules promulgated thereunder and food vending is prohibited pursuant to section 20-465.1 of this subchapter and any rules promulgated thereunder or pursuant to subdivision 1 of section 17-315 of this code, general vendors who exclusively vend written matter shall not be permitted to vend with the use of any vehicle, pushcart or stand; sections 20-466 and 20-467; subdivisions c and d of section 20-468; sections 20-469 and 20-470; and subdivision a, and paragraph one of subdivision c of section 20-472.

HISTORICAL NOTE

Section amended chap 11/2004 § 8, eff. Mar. 5, 2004 and retroactive to

Feb. 28, 2003.

Section amended L.L. 14/1995 § 13, eff. Feb. 3, 1995.

Section amended L.L. 45/1993, § 3, eff. June 1, 1993.

Section added chap 907/1985 § 1.

DERIVATION

Formerly § B32-510.1 added LL 33/1982 § 4

(legislative findings, eliminate restrictions on vending; free speech, LL 33/1982 § 1)

CASE NOTES

¶ 1. The New York City Department of Parks and Recreation Regulations, 56 RCNY Sec. 1-05(b), and 1-03(c)(1) are not enforceable against general vendors who exclusively trade in written matter. The Parks Dept. permit system directly contravenes the provisions of 20-473, which explicitly and unambiguously exempts general vendors who exclusively vend written matter from compliance with the written authorization or permit requirements contained elsewhere in the Administrative Code. While Sec. 20-473 confers upon the Department the authority to "regulate the vending of written matter in a manner consistent with the purpose of the parks and the declared legislative intent of this sub-chapter," that grant of authority may not be read so broadly as to allow the Department to criminalize through administrative fiat that which the City Council has expressly authorized. An administrative agency cannot by its regulations effect its vision of societal public choices and may adopt only rules and regulations which are in harmony with the statutory responsibilities it has been given to administer. In other words, the agency cannot make unlawful that which the legislature still has on its books as lawful. People v. Balmuth, 178 Misc.2d 958, 681 N.Y.S.2d 439 (Crim.Ct. New York Co. 1998), aff'd 189 Misc.2d 243, 731 N.Y.S.2d 314 (App.Term 1st Dept.), **leave to appeal denied**, 97 N.Y.2d 678, 738 N.Y.S.2d 293 (2001).

¶ 2. A group of visual artists, who displayed and sold their artwork on the streets of New York City, including the area in front of the Metropolitan Museum of Art (the "Met"), challenged 56 RCNY Sec. 1-05, which prohibited them from selling art either within the parks or on territory which was under the jurisdiction of the Parks Department. The court first analyzed the statutory scheme. Admin. Code Sec. 20-453 requires all vendors in New York City to obtain a license, but exempts book vendors. Admin. Code 20-465 prohibits general vendors from vending within the geographical area under the jurisdiction of the Department of Parks and Recreation except within a permit, but this permit requirement is also subject to an exemption for vendors of written material, as described in Section 26-473. 56 RCNY is valid as enforced against most vendors, who deal in neither books nor art (see Bery v. City of New York, discussed in note, regarding art). However, the court held, the enforcement of 56 RCNY 1-05(b) against art vendors contravenes Admin. Code 20-473. Lederman v. Giuliani, 2001 WL 902591 (U.S. Dist. Ct. S.D.N.Y.)

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-474

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-474 Procedures for recovery of written matter that has been removed.

A general vendor who exclusively vends written matter and who has had any written matter, or any vehicle, pushcart or stand removed under the provisions of subdivisions b, e or f of section 20-468 of this subchapter may serve upon the officer in charge of the police department facility in which the property is located notice of a request for the return of such property either before or after a judicial or administrative determination, conducted in accordance with chapter one of this title and all other laws, rules and regulations applicable thereto, of the violation underlying the removal of such written matter, vehicle, pushcart or stand has been made irrespective of the result of such determination. Unless the judicial or administrative proceeding has terminated in favor of such vendor, the owner, or other person lawfully entitled to the possession of such vehicle, pushcart, stand or written matter which has been removed under the aforementioned provisions shall be charged with reasonable costs for removal and storage, payable upon or after the judicial or administrative determination that the violation underlying the removal of such written matter, vehicle, pushcart or stand occurred. Such charge for removal and storage, which shall be established by the police commissioner by regulation shall be made part of the fine, penalty or judgment rendered in the judicial or administrative proceeding and shall be paid to the police department property clerk by the judicial or administrative body receiving such fine, penalty or judgment.

HISTORICAL NOTE

Section amended L.L. 45/1993 § 4, eff. June 1, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-510.2 added LL 33/1982 § 5

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-474.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-474.1 Delivery to general vendors; distributor's license required.

a. It shall be unlawful for any individual to transport goods by means of a motor vehicle, as defined in the vehicle and traffic law, to a public space for sale or other transfer to a general vendor, without having first obtained a distributor's license in accordance with the provisions of this subchapter. For the purpose of this section, "distributor" shall be defined as any person or organization engaged in the sale, consignment, or distribution of goods for sale or resale by a general vendor. This shall not include an owner of goods who personally operates a motor vehicle to transport such goods exclusively to and from a location from which the owner will personally sell such goods in compliance with all applicable laws. For the purpose of this section, "public space" shall be defined as all publicly owned property between the property lines on a street as such property lines are shown on the City map including but not limited to a park, plaza, roadway, shoulder, tree space, sidewalk or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums, and terminals.

b. Where the distributor does not personally drive the vehicle, he or she shall cause the driver to carry proof of the distributor's license, which the driver shall furnish upon demand to any officer or agent empowered to enforce the law. No distributor shall permit any driver he or she employs to engage in, on the distributor's behalf, any of the activities for which a license is required unless such driver complies with all regulations promulgated pursuant to this subchapter.

c. Each person applying for a distributor's license, or renewal thereof, shall file an application in such form and

detail as the commissioner may prescribe and shall pay such license fee as shall be established by the commissioner by regulation. In addition to any other information required, the commissioner shall require the following information:

1. The name and home and business address of the applicant;

2. The name and home and business address of the owner, if other than the applicant, of the goods to be delivered;

3. A description of the type of goods or services to be delivered; 4. Three prints of a full-face photograph of the applicant taken not more than thirty days prior to the date of the application;

5. Proof that the applicant has obtained from the state tax commission of the state of New York a certificate of authority designating the applicant's sales tax identification number;

6. An applicant who is a non-resident of the city shall provide the name and address of a registered agent within the city or designate the commissioner as his or her agent upon whom process or other notification may be served;

7. Any changes in the information provided in an application for an original license or renewal thereof, which arise during the term of the license shall be reported to the commissioner in writing within thirty days.

HISTORICAL NOTE

Section added L.L. 113/1989 § 1.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-474.2

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-474.2 Delivery vehicle identification required.

a. No person shall engage in any activity for which a distributor's license is required unless the motor vehicle used therefor is identified in the manner prescribed by law or regulation.

b. Any vehicle used by a distributor to transport goods to a general vendor must be visually identified by a sign conspicuously displayed on the side of the vehicle. The following information shall be clearly and legibly displayed on such sign: the licensee's name, address, and business telephone number; the words "General Vending Distributor"; and the department's telephone complaint number. The letters and numerals of such display shall not be less than one and one-half inches in height, with a width of at least one-quarter of an inch, and shall be colored black or white, whichever is most prominent against the background color.

c. Signs used to identify delivery vehicles may be removable, but must be securely fastened whenever the vehicle is used to deliver or remove goods to or from a general vendor. The sign must remain securely attached throughout the time it takes to load or unload goods.

HISTORICAL NOTE

Section added L.L. 113/1989 § 1.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-474.3

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 27 GENERAL VENDORS*2

§ 20-474.3 Failure to produce license; presumptive evidence of unlicensed activity.

a. In any civil or criminal action or proceeding, failure by a general vendor who is required to be licensed pursuant to the provisions of this subchapter to exhibit upon demand a general vendor's license in accordance with the provisions of this subchapter to any police officer or authorized officer or employee of the department or other city agency shall be presumptive evidence that such general vendor is not duly licensed.

b. In any civil or criminal action or proceeding, failure by any person who is required to obtain a distributor's license pursuant to the provisions of this subchapter, or failure by the driver of such person, to exhibit upon demand a distributor's license in accordance with the provisions of this subchapter to any police officer or authorized officer or employee of the department or other city agency shall be presumptive evidence that such person is not duly licensed.

HISTORICAL NOTE

Section added L.L. 19/1994 § 2, eff. July 30, 1994.

FOOTNOTES

2

[Footnote 2]: * Added L.L. 77/1977 § 3, renumbered L.L. 52/1984 § 1, formerly Article 15.

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Administrative Code of the City of New York

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NYC Administrative Code 20-475

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-475 Definitions.

For purposes of this subchapter: a. "Storage warehouse" means a building or structure, or any part thereof, in which a consumer's household goods are received for storage for compensation, except warehouses in which such goods are stored by or on behalf of a merchant for resale or other use in the course of the merchant's business.

b. "Storage warehouse operator" means any person operating any storage warehouse as defined herein.

c. "Household goods" shall mean property commonly used in a household, including but not limited to furniture, clothing and appliances but not including goods stored by, or on behalf of, a merchant for resale or other use in the merchant's business.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-531.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-510.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-476

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-476 License required.

No person shall operate a storage warehouse without a license. The annual fee for a license or a renewal shall be two hundred ninety-five dollars for the first warehouse and one hundred fifty dollars for each additional warehouse. The license shall be posted in a conspicuous place in the office of each warehouse.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-532.0 added LL 1/1979 § 1

Amended LL 30/1983 § 15

Renumbered LL 52/1984 § 8

(formerly § B32-511.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-477

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-477 Duties of warehouse operator.

Every storage warehouse operator shall comply with the provisions of this subchapter and regulations promulgated by the commissioner setting forth requirements for estimates and any other rules and regulations promulgated to implement and enforce this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-533.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-512.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-478

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-478 Schedule of rates.

Every storage warehouse operator shall, upon obtaining a license, file with the department schedules showing the rates and charges for the storage and handling of property in the warehouse, and such schedules shall be kept in convenient form and be open at all times during business hours to public inspection at the warehouse or warehouses and the office of the commissioner. Prior to accepting any goods for storage, the schedule of all rates and charges must be presented to the individual requesting the goods to be stored. One copy of this schedule shall be retained by the individual requesting storage and another shall be signed by such individual and retained by the warehouse operator. Any rate or charge not included on such document may not be collected at a later date.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-534.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-513.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-479

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-479 Bond.

Each storage warehouse operator shall file before receipt of a warehouse license and maintain with the department a surety bond in the sum of ten thousand dollars executed by the storage warehouse operator as principal, and a surety company authorized to do business in this city as surety, payable to the city of New York and conditioned upon the storage warehouse operator's compliance with the provisions of this subchapter and any regulations duly promulgated and upon the further conditions that the licensee will pay to the city any fine, penalty or other obligation within thirty days of its imposition and faithfully account in the manner required by law to the owners of all goods, wares, or other property that the storage warehouse operator receives, handles, stores or otherwise deals in as a storage warehouse operator. The commissioner may increase the amount of the bond required of storage warehouse operators.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-535.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-514.0)

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NYC Administrative Code 20-480

Administrative Code of the City of New York

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CHAPTER 2 LICENSES

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§ 20-480 Insurance.

Every warehouse operator shall offer insurance to each customer in accordance with terms and conditions to be determined by the commissioner but in no event shall any goods be insured for less than the amount established by the commissioner. All customers shall be informed of the minimum insurance rate and the availability of greater insurance and the charges made for such additional insurance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-536.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-515.0)

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Administrative Code of the City of New York

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NYC Administrative Code 20-481

Administrative Code of the City of New York

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CHAPTER 2 LICENSES

SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-481 Form contract.

The commissioner may establish a form contract for use by all warehouse operators.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-537.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-516.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-482

Administrative Code of the City of New York

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SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-482 Deposit of household goods by city representatives.

No representative of the city, including but not limited to sheriffs and marshals, shall deposit any household goods in a warehouse that is not licensed pursuant to this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-538.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-517.0)

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Administrative Code of the City of New York

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NYC Administrative Code 20-483

Administrative Code of the City of New York

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SUBCHAPTER 28 STORAGE WAREHOUSES

§ 20-483 Penalties.

a. The commissioner may suspend or revoke the license of any warehouse operator who is found to have committed five or more violations of this subchapter within a two year period.

b. In addition to any penalties or remedies provided for in chapter one of this title, a storage warehouse operator who shall violate or fail to comply with any provisions of this subchapter or who fails, omits or neglects to obey, observe or comply with any order, rule, direction, demand or requirement of the department or who shall fail to maintain and comply with the schedule of rates and charges filed shall be subject to a penalty not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, rule, direction, demand or requirement of the department, or of any provision of this subchapter, shall be a separate and distinct offense and in case of a continuing violation, every day's continuance thereof shall be deemed to be a separate and distinct offense.

c. Any person who is not a licensed warehouse operator under the provisions of this subchapter who shall operate a warehouse shall be subject to a penalty of one thousand dollars for each day of operation without a license.

d. Any person who is not a licensed warehouse operator who shall advertise, represent in any manner, or claim to operate a storage warehouse shall be subject to a penalty of one thousand dollars.

e. Any person who shall willfully make any false entry in the accounts or in any record or memorandum kept by

a storage warehouse operator, who shall willfully destroy or falsify a record of any such account, record, or memorandum, or who shall willfully neglect or fail to make full, true or correct entries in such accounts, records, or memoranda of all facts and transactions pertaining to the business of the warehouse operator or shall keep any accounts or records with the intent to evade the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or imprisonment of not more than thirty days, or by both such fine and imprisonment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-539.0 added LL 1/1979 § 1

Renumbered LL 52/1984 § 8

(formerly § B32-518.0)

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Administrative Code of the City of New York

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NYC Administrative Code 20-484

Administrative Code of the City of New York

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CHAPTER 2 LICENSES

SUBCHAPTER 29 ELECTRONICS STORES*4

§ 20-484 Definitions.

a. "Electronics store" shall mean a commercial establishment which sells or offers for sale to the public electronic goods.

b. "Electronic goods" shall mean any of the following types of merchandise:

1. audio equipment;

2. calculators;

3. photographic equipment;

4. video equipment; or

5. computer equipment.

c. "Display space" shall mean the area of a retail establishment in which merchandise is publicly displayed and offered for sale and which is generally accessible to customers.

d. "Audio equipment" shall mean any apparatus or equipment that is used for sound reproduction, including but

not limited to amplifiers, phonographs, radios, receivers, speakers, compact disc players, tape players, tape recorders and turntables. "Audio equipment" does not include prerecorded or blank audio recording tapes or records.

e. "Photographic equipment" shall mean any apparatus or equipment that is used for the taking, developing or enlarging of photographs or moving pictures, including but not limited to cameras, video cameras, camera cases, lenses, tripods and developing equipment. "Photographic equipment" does not include film or film processing.

f. "Video equipment" shall mean televisions and any apparatus or equipment used in the process of producing images on a television set, including but not limited to video disc players, video game units, video tape players and video tape recorders. "Video equipment" does not include prerecorded video discs and tapes, blank video tapes or video game cartridges.

g. "Computer equipment" shall mean computers, word processors and any apparatus or equipment that is used for computing or word processing, including but not limited to printers, modems, monitors, keyboards, disk drives and peripherals. "Computer equipment" does not include disks, diskettes or computer paper.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it is necessary to safeguard and protect both the public against abuses practiced by certain dealers and preserve public confidence in reputable dealers. To accomplish this the Council finds it desirable to expand the limited midtown licensing of retail deales in audio, video, computer and photographic equipment to citywide licensing.

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NYC Administrative Code 20-485

Administrative Code of the City of New York

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CHAPTER 2 LICENSES

SUBCHAPTER 29 ELECTRONICS STORES*4

§ 20-485 License required.

No person shall maintain or operate an electronics store without first having obtained a license therefor issued pursuant to section 20-485.2 of this subchapter.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it

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NYC Administrative Code 20-485.1

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§ 20-485.1 Application; fee; term.

a. An application for any license required under this subchapter or for any renewal thereof shall be made to the commissioner in such form or manner as he or she shall prescribe by rule.

b. There shall be a biennial fee for a license to maintain or operate an electronics store. Such fee for a license to maintain or operate an electronics store shall be three hundred and forty dollars.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in

consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it is necessary to safeguard and protect both the public against abuses practiced by certain dealers and preserve public confidence in reputable dealers. To accomplish this the Council finds it desirable to expand the limited midtown licensing of retail deales in audio, video, computer and photographic equipment to citywide licensing.

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NYC Administrative Code 20-485.2

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§ 20-485.2 Issuance of license.

A license to maintain or operate an electronics store shall be granted in accordance with the provisions of this subchapter and any rules promulgated by the commissioner thereunder. The commissioner may refuse to issue to an applicant any license required under this subchapter based upon a determination made after due notice and opportunity to be heard that such applicant has engaged in conduct which would constitute a basis for license suspension or revocation as set forth in section 20-485.3 of this subchapter.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in

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§ 20-485.3 Renewal, suspension and revocation of licenses.

In addition to any powers of the commissioner and not in limitation thereof, the commissioner may refuse to renew any license required under this subchapter and may suspend or revoke any such license, after due notice and the opportunity to be heard, upon the occurrence of any one or more of the following conditions:

a. The person holding a license to maintain or operate an electronics store or where applicable its officers, principals, directors, employees or stockholders owning more than ten percent of the outstanding stock of the corporation have been found to have violated any provision of this subchapter, or section 20-708 of this title, or any rules promulgated thereunder; or

b. The person holding a license to maintain or operate an electronics store or where applicable its officers, principals, directors, employees or stockholders owning more than ten percent of the outstanding stock of the corporation have made a material false statement or concealed a material fact in connection with the filing of any application pursuant to this subchapter or have been found to have committed fraud or misrepresentation upon a customer; or

c. The person holding a license to maintain or operate an electronics store or where applicable its officers, principals, directors, employees or stockholders owning more than ten percent of the outstanding stock of the corporation have been found to have engaged in untrue, misleading or deceptive advertising, or deceptive or

unconscionable trade practices as described in chapter five of title twenty of this code and any rules promulgated thereunder; or

d. The person holding a license to maintain or operate an electronics store or where applicable its officers, principals, directors, employees or stockholders owning more than ten percent of the outstanding stock of the corporation have not paid, within the time permitted by law, any civil penalty or judgment duly imposed pursuant to the provisions of this subchapter or any rule promulgated thereunder.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it is necessary to safeguard and protect both the public against abuses practiced by certain dealers and preserve public confidence in reputable dealers. To accomplish this the Council finds it desirable to expand the limited midtown licensing of retail deales in audio, video, computer and photographic equipment to citywide licensing.

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NYC Administrative Code 20-485.4

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§ 20-485.4 Transferability.

No license issued under this subchapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it

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NYC Administrative Code 20-485.5

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§ 20-485.5 Duties of licensees.

a. Posting of information. Every person holding a license to maintain or operate an electronics store shall conspicuously post such license.

b. Display of selling price. 1. All merchandise sold, exposed for sale or offered for sale at retail in a store licensed under this subchapter shall have conspicuously displayed, at the point of exposure or offering for sale, the total selling price exclusive of tax by means of a stamp, tag or label attached to the item, or a sign at the point of display which indicates the item to which the price refers; provided that this information is plainly visible, without the assistance of store personnel.

2. This subdivision shall not apply to merchandise displayed in the window of the electronics store.

3. Notwithstanding the provisions of section 20-485.6 of this subchapter, the civil penalties imposed for a violation of this subdivision shall be those provided for violations of section 20-708 of this title.

c. Receipts. Receipts must be provided for any retail purchase if the amount of the purchase is twenty dollars or more. Receipts must be provided on request for any retail purchase if the amount of the purchase is between five and twenty dollars. Such receipts shall contain:

1. the amount of money paid for each item;

2. the total amount of money paid including a separate statement of tax;

3. the date of the purchase;

4. the name and address of the electronics store as listed on the license;

5. the license number of the licensee; and

6. a full description of each item purchased, including the type, color, size; the style or model number and year; and the brand name and manufacturer's name.

d. Records. Every person licensed to maintain or operate an electronics store shall maintain records, ledgers, receipts, bills and such other written records as the commissioner may prescribe by rule. Such records shall be made available for inspection by the commissioner at his or her request at either the licensee's place of business or at the offices of the department.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it is necessary to safeguard and protect both the public against abuses practiced by certain dealers and preserve public confidence in reputable dealers. To accomplish this the Council finds it desirable to expand the limited midtown licensing of retail deales in audio, video, computer and photographic equipment to citywide licensing.

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NYC Administrative Code 20-485.6

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§ 20-485.6 Violations.

a. The civil penalties imposed pursuant to this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this title including but not limited to such sanctions and orders which may be imposed pursuant to section 20-105 of this code.

b. Notwithstanding the provisions of subdivisions a and b of section 20-106, any person who violates any provision of this subchapter or any rules promulgated thereunder shall be subject to a civil penalty of not less than two hundred and fifty dollars nor more than two thousand dollars for each violation, to be recovered in a civil action.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the public is frequently at a distinct disadvantage when seeking to purchase this equipment. Certain retail dealers engaged in the sale of this equipment have used their knowledge to exploit consumers. The Council finds that it is necessary to safeguard and protect both the public against abuses practiced by certain dealers and preserve public confidence in reputable dealers. To accomplish this the Council finds it desirable to expand the limited midtown licensing of retail deales in audio, video, computer and photographic equipment to citywide licensing.

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NYC Administrative Code 20-486

Administrative Code of the City of New York

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§ 20-486 Exemptions.

The provisions of this subchapter shall not apply to: a. any store which uses less than twenty percent of this display space, as measured by linear feet and not square feet, for the display of electronic goods; or

b. any store that displays fewer than thirty items that are electronic goods in its display space.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the

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NYC Administrative Code 20-487

Administrative Code of the City of New York

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§ 20-487 Powers of the commissioner.

The authority and power of the commissioner pursuant to this subchapter and chapter one of this title shall extend to all sales and advertising activities of an electronics store and shall not be limited to sales and advertising activities relating to the merchandise described in paragraph b of section 20-484 of this subchapter or to merchandise described in any rules of the commissioner promulgated under this sub- chapter.

HISTORICAL NOTE

Section added L.L. 38/1992 § 2, eff. Jan. 1, 1993.

FOOTNOTES

4

[Footnote 4]: * Subchapter added L.L. 38/1992 note legislative declaration.

Section one. Legislative declaration. The Council finds that at a time of great variety and complexity in consumer goods, as well as new developments in electronic, audio and video equipment available for sale, the

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NYC Administrative Code 20-488

Administrative Code of the City of New York

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SUBCHAPTER 30 DEBT COLLECTION AGENCIES

§ 20-488 Legislative declaration.

The council hereby finds the presence of consumer related problems with respect to the practices of debt collection agencies whose sole concern is the collection of debts owed to their clients. While the majority of those engaged in this business are honest and ethical in their dealings, there is a minority of unscrupulous collection agencies in operation that practice abusive tactics such as threatening delinquent debtors, or calling such people at outrageous times of the night. These actions constitute tactics which would shock the conscience of ordinary people. Due to the sensitive nature of the information used in the course of such agency's everyday business, and the vulnerable position consumers find themselves in when dealing with these agencies, it is incumbent upon this council to protect the interests, reputations and fiscal well-being of the citizens of this city against those agencies who would abuse their privilege of operation. It is herein declared that the city should license debt collection agencies.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-97.0 added LL 65/1984 § 1

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NYC Administrative Code 20-489

Administrative Code of the City of New York

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§ 20-489 Definitions.

a. "Debt collection agency" shall mean a person engaged in business the principal purpose of which is to regularly collect or attempt to collect debts owed or due or asserted to be owed or due to another and shall also include a buyer of delinquent debt who seeks to collect such debt either directly or through the services of another by, including but not limited to, initiating or using legal processes or other means to collect or attempt to collect such debt. The term does not include:

(1) any officer of employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(2) any officer or employee of a debt collection agency;

(3) any person while acting as a debt collection agency for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collection agency does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(4) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(5) any attorney-at-law or law firm collecting a debt in such capacity on behalf of and in the name of a client

solely through activities that may only be performed by a licensed attorney, but not any attorney-at-law or law firm or part thereof who regularly engages in activities traditionally performed by debt collectors, including, but not limited to, contacting a debtor through the mail or via telephone with the purpose of collecting a debt or other activities as determined by rule of the commissioner;

(6) any person employed by a utility regulated under the provisions of the public service law, acting for such utility;

(7) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow agreement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person as a secured party in a commercial credit transaction involving the creditor;

(8) any officer or employee of the United States, any state thereof or any political subdivision of any state to the extent that collecting or attempting to collect any debt owed is in the performance of his or her official duties;

(9) any non-profit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists customers in the liquidation of their debts by receiving payments from such customers and distributing such amounts to creditors.

b. The term "child support" means a sum to be paid by either or both parents pursuant to court order or decree or pursuant to a valid agreement between the parties for care, maintenance and education of a child.

c. The term "consumer" means any natural person obligated or allegedly obligated to pay any debt.

d. The term "debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment, or any obligation or alleged obligation arising out of a judgment or valid agreement for the payment of child support.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a open par amended L.L. 15/2009 § 1, eff. July 16, 2009.

Subd. a par (5) amended L.L. 15/2009 § 2, eff. July 16, 2009.

Subd. b added L.L. 70/2003 § 2, eff. Feb. 24, 2004. [See § 20-494.1 Note 1]

Subd. c relettered (former subd. b) L.L. 70/2003 § 2, eff. Feb. 24, 2004. [See § 20-494.1 Note 1]

Subd. d relettered (former subd. c) and amended L.L. 70/2003 §§ 2, 3 eff. Feb. 24, 2004.

DERIVATION

Formerly § B32-97.1 added LL 65/1984 § 1

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NYC Administrative Code 20-490

Administrative Code of the City of New York

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§ 20-490 License required.

It shall be unlawful for any person to act as a debt collection agency without first having obtained a license in accordance with the provisions of this subchapter, and without first being in compliance with all other applicable law, rules and regulations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-98.0 added LL 65/1984 § 1

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NYC Administrative Code 20-491

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-491 License term; fees.

a. All licenses issued pursuant to this subchapter shall be valid for two years unless sooner suspended or revoked. The commissioner shall establish by regulation the expiration date of such licenses.

b. The annual fee for a license or renewal thereof shall be seventy-five dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-99.0 added LL 65/1984 § 1

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NYC Administrative Code 20-492

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-492 Applications.

a. Each person applying for a debt collection agency license or renewal thereof shall file an application in such form and detail as the commissioner may prescribe and shall pay the fee required by this subchapter.

b. In addition to any other information required, the commissioner shall require the following information:

1. The name and address of the applicant.

2. The applicant who is a non-resident of the city shall provide the name and address of a registered agent within the city or designate the commissioner as his or her agent upon whom process or other notification may be served.

c. Any debt collection agency subject to the provisions of section 20-494.1 shall furnish to the commissioner a current version of the disclosure form required under section 20-494.1(e) together with a copy of such agency's standard contract for child support payment debt collection services upon applying for a debt collection agency license or renewal thereof. Any contract for child support payment debt collection services shall not be deemed valid or in force and effect until the department has completed a review of and approved a debt collection agency's standard contract, which review shall be completed and approval or disapproval provided within ninety days after submission of such contract to the department. Any amendment or modification of such standard contract or disclosure form shall be provided to the commissioner within sixty days following such amendment or modification.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. c added L.L. 70/2003 § 4, eff. Feb. 24, 2004. [See § 20-494.1 Note 1]

DERIVATION

Formerly § B32-100.0 added LL 65/1984 § 1

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NYC Administrative Code 20-493

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SUBCHAPTER 30 DEBT COLLECTION AGENCIES

§ 20-493 Powers and duties of the commissioner.

a. The commissioner may make and promulgate such rules and regulations as may be necessary for the proper implementation and enforcement of subchapter.

b. In addition to any other powers of the commissioner, not in limitation thereof, the commissioner shall have the power to enforce the provisions of this subchapter, to investigate any violation thereof, and to investigate the business, business practices and business methods of any debt collection agency, if in the opinion of the commissioner, such investigation is warranted. Each debt collection agency shall be obliged upon the request of the commissioner to supply such information as may be required concerning its business practices or methods or its proposed business practices or methods.

c. For the purpose of enforcing the provisions of this subchapter, and in conducting investigations relating to any violation thereof, and for the purpose of investigating the business or business practices or methods of any debt collection agency, the commissioner, or the commissioner's designee, shall have the power to compel the attendance of witnesses and the production of books and records, in accordance with the provisions of chapter one of this title.

d. For the purpose of this subchapter, licensees may be held responsible for statements, representations, promises or acts of their employees or their agents within the scope of their authority; provided, however, that licensees shall not be held responsible for the statements, representations, promises or acts which are contrary to instructions or

which constitute gross negligence or intentional torts unless specifically authorized by the licensee.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B32-101.0 added LL 65/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-493.1

Administrative Code of the City of New York

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§ 20-493.1 Required collection practices.

In addition to any practices required under any federal, state or local law, a debt collection agency shall:

a. In any permitted communication with the consumer, provide:

i. a call-back number to a phone that is answered by a natural person,

ii. the name of the agency,

iii. the originating creditor of the debt,

iv. the name of the person to call back, and

v. the amount of the debt at the time of the communication.

b. Confirm in writing to the consumer, within five business days, any debt payment schedule or settlement agreement reached regarding the debt.

HISTORICAL NOTE

Section added L.L. 15/2009 § 3, eff. July 16, 2009.

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NYC Administrative Code 20-493.2

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§ 20-493.2 Prohibited collection practices.

In addition to any practices prohibited under any federal, state or local law, a debt collection agency shall not:

a. Attempt to collect or contact a consumer regarding a debt after such consumer requests verification for such debt until such agency furnishes such consumer written documentation identifying the creditor who originated the debt and itemizing the principal balance of the debt that remains or is alleged to remain due and all other charges that are due or alleged to be due;

b. Contact a consumer about or seek to collect a debt on which the statute of limitations for initiating legal action has expired unless such agency first provides the consumer such information about the consumer's legal rights as the commissioner prescribes by rule.

HISTORICAL NOTE

Section added L.L. 15/2009 § 4, eff. July 16, 2009.

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NYC Administrative Code 20-494

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SUBCHAPTER 30 DEBT COLLECTION AGENCIES

§ 20-494 Penalties.

a. Any person who, after notice and hearing shall be found guilty of violating any provision of this subchapter, shall be punished in accordance with the provisions of chapter one of this title and shall be subject to a penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation provided further, however, that any such person found guilty of having acted as a debt collection agency in violation of section 20-490 of this subchapter shall be subject to an additional penalty of one hundred dollars for each instance in which contact is made with a consumer in violation of such section.

b. In addition to any other penalties, if a person is found to have committed repeated, multiple or persistent violations of any provision of this subchapter, such person may be responsible for the cost of the department's investigation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 70/2003 § 5, eff. Feb. 24, 2004. [See § 20-494.1

Note 1]

Subd. a amended L.L. 15/2009 § 5, eff. July 16, 2009.

DERIVATION

Formerly § B32-102.0 added LL 65/1984 § 1

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NYC Administrative Code 20-494.1

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CHAPTER 2 LICENSES

SUBCHAPTER 30 DEBT COLLECTION AGENCIES

§ 20-494.1 Prohibited and required practices relating to the collection of child support payments.

a. For purposes of this section the following terms shall have the following meanings:

1. "Current payment of child support" shall mean a payment made pursuant to a schedule arising out of a judgment or valid agreement for the payment of child support which is made within thirty days of such payment's due date.

2. "Potential client" shall mean a person seeking child support debt collection services from a debt collection agency.

b. Any agreement or contract for the collection of child support payments shall be in writing and shall not extend beyond twelve consecutive months. Renewal of such contracts shall not be automatic and shall require the consent in writing of all parties to the contract.

c. No debt collection agency that collects child support payments shall: 1. charge interest or otherwise impose a charge or fee for its services that exceeds fifteen percent of each child support payment collected.

2. charge interest or otherwise impose a charge or fee with respect to child support payments collected primarily through the efforts of a governmental entity.

3. charge interest or otherwise impose a charge or fee for a current payment of child support.

4. impose a charge or fee for the costs of an application.

5. impose a charge or fee for legal services unless paid to an independent firm, practitioner or agency for actual costs incurred and unless agreed upon in writing by the potential client.

6. impose a charge or fee for the termination of a contract for the collection of child support.

7. impose a charge or fee that does not bear a reasonable relationship to the amount of child support actually collected.

8. designate a current payment of child support as arrears.

9. prohibit the termination of a contract for the collection of child support payments until arrears are paid.

10. include any terms in a contract for the collection of child support that conflict or are inconsistent with the terms set out in this subchapter.

d. an agreement for the collection of child support shall terminate automatically if no payment of child support has been collected by such debt collection agency for a period of six consecutive months.

e. Any debt collection agency that collects child support payments shall provide to a potential client a written disclosure form at the same time as such agency first furnishes such potential client with any informational or promotional materials, application or contract for services, regardless of the manner in which such materials are provided including, but not limited to, in-person contact, fax, regular mail, internet or other electronic means, containing, but not limited to, the following information prominently disclosed in a meaningful sequence:

1. No obligation. A potential client shall be advised that such client is under no obligation to hire a debt collection agency to collect child support payments on behalf of such client and that:

(i) New York city's office of child support enforcement (OCSE) provides child support enforcement services at no cost to families regardless of income and

(ii) OCSE's powers include, but are not limited to, garnishments against wages, liens on bank accounts and property, tax refund intercepts and the initiation of incarceration proceedings.

2. Fees.

(i) Application fees. A potential client shall be advised that child support debt collection agencies are prohibited by law from charging a fee for the costs of an application.

(ii) Prohibition against collection fees for child support payments that are not in arrears. A potential client shall be advised that debt collection agencies are prohibited by law from collecting fees for child support payments that are not in arrears and that it is unlawful for such an agency to designate a current payment of child support as arrears.

(iii) Legal fees. A potential client shall be advised that child support debt collection agencies are prohibited by law from charging for legal services unless such fees are paid to an independent firm, practitioner or agency for actual costs incurred and unless agreed upon in writing by the potential client.

(iv) Early termination penalty. A potential client shall be advised that child support debt collection agencies are prohibited from imposing a charge or fee for the termination of a contract.

(v) Additional fees. A potential client shall be advised regarding any additional fees or potential additional fees, including but not limited to, the services for which such fees may be imposed, how such fees are calculated and when such fees are billed. A potential client shall also be advised that any fees must bear a reasonable relationship to the amount of child support actually collected.

(vi) A potential client shall be advised that child support debt collection agencies are prohibited by law from imposing any contract terms that conflict or are inconsistent with the provisions specified in the required disclosure form required under section 20-494.1(e).

3. Contract terms and renewals.

(i) A potential client shall be advised that, by law, contracts for the collection of child support payments shall not be entered into for periods of longer than twelve consecutive months.

(ii) A potential client shall be advised that renewal of such contracts shall not be automatic and shall require the written consent of all parties to the contract.

(iii) A potential client shall be provided a summary of all contract termination provisions, including, but not limited to, the specific date on which such contract shall terminate. If no specific date is provided in the contract, the debt collection agency shall describe how and when such contract will terminate.

(iv) A potential client shall be advised that, by law, a contract cannot be renewed if, upon the renewal date, there has been no collection activity for the immediately preceding six consecutive months.

f. Any debt collection agency that collects child support payments shall furnish to the commissioner a current version of the disclosure form required under section 20-494.1(e) together with a copy of such agency's standard contract for child support payment debt collection services within sixty days following the effective date of the local law that added such section.

g. As a condition to the issuance of a license to provide child support payment debt collection services, each applicant shall furnish to the commissioner a surety bond in the sum of five thousand dollars, payable to the city of New York, executed by such applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules or regulations promulgated hereunder, and upon the further condition that such applicant will pay to the city any fine, penalty or other obligation within thirty days of its imposition, or any final judgment recovered by any person who received child support payment debt collection services from a licensee thereunder and was damaged thereby. The commissioner may, by rule, increase the amount of the surety bond required by this section to an amount not to exceed twenty-five thousand dollars. The commissioner may by rule authorize an applicant to, in lieu of a bond, deposit cash to satisfy the requirements of this section in an amount equal to the sum of the surety bond required by this section.

h. The commissioner may by rule establish a fund to be administered by the comptroller and authorize an applicant for a license to provide child support payment debt collection services to, in lieu of a bond or cash equivalent, make contributions to such fund to satisfy the requirements of subdivision g of this section. The commissioner may promulgate such rules or regulations as are necessary for the administration of such fund including, but not limited to, rules setting forth the conditions for participation in the fund, the contributions required to be made to the fund and the circumstances under which disbursements will be made from the fund.

i. The commissioner may promulgate such rules as may be necessary to carry out the provisions of this section.

HISTORICAL NOTE

Section added L.L. 70/2003 § 6, eff. Feb. 24, 2004. [See Note 1]

NOTE

1. Provisions of L.L. 70/2003:

Section 1. Legislative findings and intent. Existing federal, state and local consumer protection laws do not generally regulate private child support collection agencies. Furthermore, current industry practices, as reflected in consumer complaints and litigation, raise significant questions about the implications of the lack of such regulation. Specifically, the Council finds that alleged practices, including, but not limited to, charging exorbitant and excessive fees, threats and abusive telephone calls directed at both custodial and non-custodial parents, signing custodial parents to contracts with unclear terms, collecting fees for payments of child support collected primarily by a government agency, and utilizing unclear accounting practices that lead to the designation of current payments of child support as arrears in order to prevent parents from ever satisfying their obligations to such agencies, necessitate the creation of basic consumer protections for consumer-parents interacting with these agencies. The Council also finds that current, timely and/or on-going payments of orders of child support are part of a family's income needed to meet basic needs. Therefore, the Council finds that private child support collection agencies should be regulated by New York City's consumer protection laws, and that the fees collected by such agencies should be reasonably related to the work and services provided.

. . . . . .

§7. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.
§8. Effective date. This local law shall take effect ninety days after its enactment into law, and shall apply to contracts entered into on or after such date.

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***** Current through December 2009 ****

NYC Administrative Code 20-495

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-495 Definitions.

For purposes of this subchapter, the following terms shall have the following meanings:

a. "Disabled vehicle" shall mean any vehicle for which towing is necessary because of a vehicular accident or for which towing is necessary because of the vehicle's inability to proceed under its own motive power due to reasons other than a vehicular accident.

b. "Evidence vehicle" shall mean any vehicle which is suspected of having been used as a means of committing a crime or employed in aid or furtherance of a crime or held, used or sold in violation of law or which may be required to be held or produced as evidence in a criminal investigation or proceeding.

c "Person in charge of a vehicle" shall mean the operator or owner of a vehicle or any person designated by the owner to contract for the towing or repairing of such vehicle.

d. "Towing" shall mean the driving or other operation of a tow truck, or the offering to transport a vehicle by means of a tow truck. An employee of a repair shop registered pursuant to article twelve-A of the vehicle and traffic law that is not subject to the licensing requirements of this subchapter shall not be deemed to be engaged in "towing" when such employee test-drives a tow truck that has been repaired or is to be repaired by such repair shop if (1) such tow truck is not owned or operated by such repair shop, (2) such tow truck is not transporting another vehicle, and (3) such

test-drive takes place within a one mile radius of such repair shop's premises.

e. "Tow truck" shall mean a vehicle that is equipped with a crane, winch, tow bar, push plate, or other device designed to pull or push a vehicle or to raise a vehicle or the front or rear end thereof.

f. "Vehicle" shall mean a motor vehicle as defined in section one hundred twenty-five of the vehicle and traffic law, a tractor as defined in section one hundred fifty-one-a of such law or a trailer as defined in section one hundred fifty-six of such law.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subds. d, e amended L.L. 112/1993 § 2, eff. Apr. 28, 1994.

CASE NOTES

¶ 1. Federal law (49 USC § 14501(c)) does not pre-empt New York City from enacting laws regulating how towing companies are dispatched to particular accident sites and regulating charges which may be made. Ace Auto Body & Towing, Ltd., N.Y.L.J., May 3, 1999, page 33, col. 6 (2d Cir. Ct. of Appeals).

¶ 2. The City's restrictions against out-of-City tow operators are pre-empted by federal law, 49 USC § 14501(c)(1). A group of tow truck operators challenged the City's restrictions, which had been designed to prevent tow truck drivers from monitoring police radios and racing each other to reach car accident sites first. The City law prohibited tow truck operators from working without a license, and authorized seizure of trucks operating without a license. The law applied regardless of whether the tow truck operator was actively soliciting business within City limits or was merely passing through the City while towing a vehicle from Point A, outside the City, to Point B, also outside the City (e.g., passing through the City while towing a vehicle from Westchester County to Nassau County). Had the statute been held to be enforceable, tow truck operators would have been forced to go many miles out of their way to skirt around the City, with no discernible benefit to anyone. The federal law prohibited the City from creating restrictions on prices or services of truck operators. In an attempt to save the statute, the City argued that Section 14501 did not prohibit the City from enacting safety regulations, and contended that § 20-495 was a safety provision. The court, however, rejected the City's argument. First, if the tow truck operators were merely passing through the City and not attempting to solicit business there, why did the City need an anti-racing provision with respect to those trucks. Second, the City did not take into account that certain geographic areas are more crowded than others, so that safety restrictions that conceivably might be needed in some areas might not be necessary in other areas. Automobile Club of New York v. Dykstra, 520 F.3d 210 (2d Cir 2008).

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set

forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by

an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory

authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-496

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-496 License required.

a. Except as otherwise provided in section 20-524 of this subchapter, no person shall engage in towing without having first obtained a license for such towing business issued pursuant to section 20-498 of this subchapter. Such license shall be referred to as a license to engage in towing. No person shall engage in towing without having obtained a license plate for each tow truck issued pursuant to section 20-503 of this subchapter.

b. Except as otherwise provided in section 20-524 of this subchapter, no person shall drive or otherwise operate a tow truck or assist in any activity for which a license is required under this subchapter unless such person shall have first obtained a tow truck operator's license issued pursuant to section 20-498 of this chapter.

c. No person who is required to obtain a license under subdivision a of this section shall permit or authorize the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license or whose tow truck operator's license has been suspended or revoked where such license is required under this subchapter. In any prosecution for violation of this subdivision, it shall not be necessary to prove that such person knew or should have known that the operator was unlicensed, and there shall be a rebuttable presumption that such tow truck was driven or otherwise operated with the permission or authorization of such person. In any such prosecution, it shall be an affirmative defense that prior to being cited for such violation, such person registered such tow truck operator with the department in accordance with the procedures prescribed by rule of the commissioner and the department did not send notification to such person that such tow truck operator lacked a current, valid tow truck operator's license or

that such operator's license had been suspended or revoked.

HISTORICAL NOTE

Section amended L.L. 112/1993 § 3, eff. Apr. 28, 1994.

Section added L.L. 28/1987 § 10.

Subd. c amended L.L. 10/1993 § 1, eff. Jan. 22, 1993.

CASE NOTES FROM FORMER SECTION 10-145

¶ 1. Licensing and regulatory scheme of car towing industry as formulated in this section was upheld as being reasonably related to protecting the public in their dealing with that industry but no basis exists for restricting transfer of existing licenses for car towing held by individuals and partnerships where the transferee meets the existing standards for such license.-Matter of Love Towing v. Beame, 93 Misc. 2d 1064 [1978].

¶ 2. This section requiring tow car operators to obtain a license from N.Y.C. Police Department and to set forth rate schedule is not applicable to operator that towed parked cars on streets of a private residential community through public streets to garage because it is applicable only to the moving of a vehicle that requires towing because of accident, or because it is unable to proceed under its own motive power.-Forest Hills Gardens Corp. v. Kowler, 80 AD2d 630 [1981], aff'd 55 N.Y. 2d 768 [1981].

¶ 3. To justify a tow truck stop without a warrant under the power of the city to regulate and supervise the tow truck industry the stop and inspection must be conducted expeditiously, posing only a minimal intrusion upon the expectation of privacy, the stop must continue to be a crucial part of the regulatory scheme designed to protect the public in dealing with the tow truck industry and the stop must be limited to operations which take place away from an operational base or fixed place of business.-People v. Velez, 109 Misc. 2d 853 [1981].

¶ 4. This section is intended to regulate and license the operation of tow trucks whether the fee is directly or indirectly charged for towing. Defendant is the employee of a motor club whose membership agreement states that members are covered for towing expense to a maximum of $25.00. Thus defendant is engaged in the operation of towing vehicles for a fee, even though indirectly collected, and therefore comes within the ambit of this section.-People v. Osorio, 135 Misc 2d 262, [1987].

CASE NOTES

¶ 1. A vehicle used for repossessing cars used as loan collateral will not be exempt from the requirement that tow trucks be licensed. The court rejected a contention that stealth is necessary in the repossession business. Despite petitioner's claim of hardship, the language of the statute is clear. L.A.M. Recovery v. Dept. of Consumer Affairs, 193 Misc.2d 754, 749 N.Y.S.2d 862 (Sup.Ct. Kings Co. 2002).

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten

life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer

affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license

issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any

rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-497

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-497 Application; fingerprinting; fee; term.

a. An application for any license required under this subchapter or for any renewal thereof shall be made to the commissioner in such form and manner as he or she shall prescribe by regulation. An applicant for any such license shall be fingerprinted by the department for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Where the applicant is a sole proprietorship, fingerprints shall be taken of the owner thereof. Where the applicant is a partnership, fingerprints shall be taken of the general partners thereof. Where the applicant is a corporation, fingerprints shall be taken of the officers, principals, directors and stockholders owning more than ten percent of the outstanding stock of the corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport size photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

b. There shall be a biennial fee for a license to engage in towing and for each tow truck in excess of one operated pursuant to such license. Such fee for a license to engage in towing shall be six hundred dollars and such fee for each tow truck in excess of one shall be six hundred dollars. There shall be a biennial fee for a tow truck operator's license. The fee for such tow truck operator's license shall be twenty dollars. In the event of the loss, mutilation or destruction of any license issued hereunder, the licensee may file such statement and proof of facts as the commissioner shall require, with a fee of fifteen dollars per license, at the department, and the department shall issue a duplicate or

substitute license.

c. All licenses issued to a business pursuant to this subchapter to engage in towing and all license plates issued pursuant to this subchapter for tow trucks shall expire on April thirtieth, in even numbered years, and all licenses issued pursuant to this subchapter to tow truck drivers to operate tow trucks shall expire on October thirty-first, in even years, unless sooner suspended or revoked.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subd. a amended L.L. 66/1989 § 18.

Subd. b amended L.L. 51/1991 § 7, eff. July 17, 1991.

Subd. c amended L.L. 14/2004 § 1, eff. June 3, 2004. [See Note 1]

NOTE

1. Provisions of 14/2004 § 2:

§ 2. This local law shall take effect immediately, except that all licenses to engage in towing, all license plates, and all tow truck driver licenses that are valid on the effective date of this local law shall be in effect for an extended term that expires, in the case of licenses for tow truck drivers, on October 31st of 2006, and, in the case of licenses to engage in towing and tow truck license plates, on April 30th of 2006, provided that unless a licensee surrenders his or her license to engage in towing, tow truck license place or tow truck license by not later than January 15, 2006, the person holding such license or truck license plate shall be deemed to have operated continuously with such license or truck license plate during the entire extended term. The commissioner of the department of consumer affairs shall be authorized to prorate the applicable license fee to reflect the extension of the terms of licenses pursuant to this section 2 of this local law.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident,

where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation

as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by

section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-498 Issuance of license.

a. A license to engage in towing shall be issued only where an applicant meets all the requirements of sections 20-499, 20-500, 20-501, 20-502, any criteria in addition thereto established by the commissioner by regulation as he or she deems necessary to effectuate the purposes of this subchapter and satisfies the commissioner that such applicant possesses good moral character.

b. A license to operate a tow truck shall be issued only where an applicant is at least eighteen years of age, satisfies the commissioner that he or she is capable of safely operating a tow truck, meets any additional criteria established by the commissioner by regulation as he or she deems necessary to effectuate the purposes of this subchapter and satisfies the commissioner that such applicant possesses good moral character. For purposes of determining whether the applicant is capable of safely operating a tow truck, the commissioner may take into consideration any violation by such applicant of the vehicle and traffic law or any other applicable law pertaining to vehicle operation.

c. The commissioner may refuse to issue to an applicant any license required under this subchapter based upon a determination made after due notice and opportunity to be heard that such applicant has engaged in conduct which would constitute a basis for license suspension or revocation as set forth in this subchapter.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subd. c amended L.L. 10/1993 § 2, eff. Jan. 22, 1993.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date

immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The

commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove

vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-499

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-499 Bond.

a. As a condition of the issuance of a license to engage in towing, each applicant shall furnish to the commissioner a surety bond in the sum of five thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules or regulations promulgated hereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation within thirty days of its imposition, or any final judgment recovered by any person who received towing services from a licensee thereunder and was damaged thereby. The commissioner may in his or her discretion, after a public hearing, five days notice of which shall be published in the City Record, increase the amount of the surety bond required by this section to an amount not to exceed twenty-five thousand dollars. The commissioner may by regulation authorize an applicant to, in lieu of a bond, deposit cash to satisfy the requirements of this section in an amount equal to the sum of the surety bond required by this section.

b. The commissioner may be regulation establish a fund to be administered by the comptroller and authorize an applicant for a license to engage in towing to, in lieu of a bond or cash equivalent, make contributions to such fund to satisfy the requirements of subdivision a of this section. The commissioner may promulgate such rules or regulations as are necessary for the administration of such fund including, but not limited to, regulations setting forth the conditions for participation in the fund, the contributions required to be made to the fund and the circumstances under which disbursements will be made from the fund.

HISTORICAL NOTE

Section amended L.L. 11/1989 § 1.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the

expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such

towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having

been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-500

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-500 Insurance.

a. As a condition of the issuance of a license to engage in towing, each applicant shall furnish proof that every tow truck to be used by such applicant under such license is insured under a liability insurance policy as follows: with respect to each tow truck, not less than two hundred thousand dollars for personal injury or death of any one person resulting from any one accident; not less than five hundred thousand dollars for personal injury or death of two or more persons resulting from any one accident; and not less than fifty thousand dollars for injury to or destruction of property of one or more persons resulting from any one accident.

b. The licensee shall notify the commissioner of any modification, amendment, cancellation or substitution of any insurance policy required under subdivision a of this section within ten days of notice to the licensee of such modification, amendment, cancellation or substitution.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of

such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and

opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may

be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-501

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-501 Inspection of tow trucks.

a. No license to engage in towing shall be issued pursuant to this subchapter unless the commissioner determines that every tow truck to be used by the applicant under such license is fit for operation as a towing vehicle and is otherwise in compliance with the provisions of the vehicle and traffic law and any regulations promulgated thereunder.

b. The commissioner may require by regulation that every tow truck used by a licensee be inspected periodically by the department, and after finding such truck to be fit for operation, may issue a replaceable inspection sticker of such material, form, design and dimension to be affixed to such truck in such manner as he or she shall prescribe. The commissioner may be regulation impose a fee for any inspection in an amount not to exceed fifty dollars in order to defray the costs of conducting any such inspection.

c. Where a holder of a license to engage in towing acquires a tow truck subsequent to the date such license was issued intended for use under such license or intends to utilize a truck not previously identified in any application for a license to engage in towing, such licensee shall be prohibited from using such truck for towing until the licensee has furnished proof that such truck is insured as required by section 20-500, and that such truck has been inspected and approved for use by the department pursuant to this section and the commissioner has issued a license plate therefor pursuant to section 20-503 of this subchapter.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations

promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-502

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-502 Premises.

No license to engage in towing shall be issued or renewed to any applicant where the premises on or in which the licensed business is to be conducted are not in compliance with the zoning resolution and the building code of the city of New York and any rules or regulations promulgated thereunder.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten

life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer

affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license

issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any

rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-503

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-503 Issuance of license plate.

Upon approval of an application to engage in towing, the commissioner shall issue to the licensee a license plate for each tow truck to be used under such license. Such license plate shall be securely affixed to a conspicuous and indispensable part of such truck, and shall clearly set forth the license number assigned to the licensee. The license plate issued to the licensee may, in the discretion of the commissioner, be a plate of a permanent nature with a replaceable date tag attached thereto, indicating the expiration date of the plate. Such license and replaceable date tag shall be of such material, form, design and dimension as the commissioner shall prescribe. The commissioner, upon renewal of a license to engage in towing, may continue the use of the license plate for as many additional license terms as he or she may determine, in which event he or she shall issue and deliver to the licensee a replaceable date tag as evidence of renewal of license, which shall be attached or affixed in such manner as he or she may prescribe. The failure to affix or display such date tag in a manner prescribed by the commissioner shall constitute a violation of this section. In the event of the loss, mutilation or destruction of any license plate or date tag issued hereunder, the licensee may file such statement and proof of facts as the commissioner shall require, with a fee of twenty-five dollars per plate or date tag, at the department, and the department shall issue a duplicate or substitute license plate or date tag.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the

administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in

subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-504

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-504 Renewal, suspension and revocation of licenses.

After due notice and opportunity to be heard, the commissioner may refuse to renew any license required under this subchapter and may suspend or revoke any such license upon the occurrence of any one or more of the following conditions:

a. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors, employees, or stockholders owning more than ten persent of the outstanding stock of the corporation have been found by the commissioner to have violated any provisions of this subchapter or any rule promulgated thereunder; or

b. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation were found to have operated a tow truck in a grossly negligent manner or in a manner showing a reckless disregard for life or property. For purposes of this subdivision, a finding that any such person violated section eleven hundred ninety-two of the vehicle and traffic law in the course of the operation of a tow truck shall be deemed gross negligence; or

c. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the

corporation have made a material false statement or concealed a material fact in connection with the filing of any application pursuant to this subchapter or have engaged in fraud or misrepresentation in connection with the rendering of services; or

d. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation have not paid, within the time permitted by law, any fine, penalty or judgment duly imposed pursuant to the provisions of this subchapter or any rule or regulation promulgated hereunder or duly imposed in connection with or arising from the use or operation of a tow truck or the occupation of the premises on which the licensed business is conducted; or

e. the person holding a tow truck operator's license, or the person holding a license to engage in towing or where applicable any of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter; or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to renew, or to suspend or revoke, such license; or

f. the person holding a tow truck operator's license, or the person holding a license to engage in towing has failed to maintain any of the conditions for issuance of such license as provided under this subchapter or any rule or regulation promulgated hereunder.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subd. a amended L.L. 8/1993 § 1, eff. Jan. 22, 1993.

Subd. b amended L.L. 112/1993 § 4, eff. Apr. 28, 1994.

Subd. e amended L.L. 66/1989 § 19.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the

provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new

license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New

York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

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NYC Administrative Code 20-504.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-504.1 Mandatory suspension or revocation of license.

After due notice and opportunity to be heard, the commissioner shall refuse to renew, or shall suspend or revoke a license required under this subchapter, upon the occurrence of any one or more of the following conditions:

a. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found by the commissioner to have willfully and unjustifiably refused to release a vehicle towed pursuant to section 20-518 or section 20-519 of this subchapter, to the vehicle's owner or the owner's agent. The commissioner shall establish standards concerning the sufficiency of proof of ownership of the vehicle and the legality of any charges demanded by the licensee for release of the vehicle. In determining whether such refusal is willful and unjustifiable, the commissioner in addition to any other relevant fact shall consider such standards; b. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a misdemeanor or a felony relating to auto stripping in violation of article 165 of the penal law;

c. the person holding a license to engage in towing or where applicable, any of such licensee's officers, principals, directors, employees, or stockholders owning more than ten percent of the outstanding stock of the corporation has been found by the commissioner to have committed in any combination three or more violations of the provisions of section 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules

promulgated thereunder within a two year period;

d. the person holding a tow truck operator's license has been found by the commissioner to have committed in any combination two or more violations of the provisions of section 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder within a two year period.

e. the person holding a tow truck operator's license has been found to have operated any motor vehicle in violation of section eleven hundred ninety-two of the vehicle and traffic law during the license term, or has been found to have operated a tow truck in violation of section eleven hundred eighty-two of the vehicle and traffic law.

HISTORICAL NOTE

Section added L.L. 10/1993 § 3, eff. Jan. 22, 1993.

Subd. a amended L.L. 112/1993 § 6, eff. Apr. 28, 1994. Note: This amendment expired Dec. 31, 1997 as per L.L. 20/1997 § 1.

Subd. c amended L.L. 112/1993 § 5, eff. Apr. 28, 1994 but applies on and after Dec. 31, 1997 as per L.L. 20/1997 § 1. Note: amendment to subd. c by L.L. 112/1993 § 6 expired Dec. 31, 1997 as per L.L. 20/1997 § 1.

Subd. d amended L.L. 112/1993 § 5, eff. Apr. 28, 1994 but applies on and after Dec. 31, 1997 as per L.L. 20/1997 § 1. Note: amendment to subd. d by L.L. 112/1993 § 6 expired Dec. 31, 1997 as per L.L. 20/1997 § 1.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the

provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new

license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New

York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-505 Tow truck operator's license suspension or revocation; special circumstances.

Notwithstanding any other provision of law, where the commissioner has reason to believe that a tow truck operator has committed an act which should provide a basis for suspension or revocation under section 20-504 or 20-504.1 of this subchapter, and the continued possession by such person of a tow truck operator's license would pose a serious danger to the safety of the public, the commissioner may immediately suspend his or her tow truck operator's license. Nothwithstanding any other provision of law, upon the suspension or revocation pursuant to the vehicle and traffic law of a license to operate a motor vehicle that is held by a person who also holds a tow truck operator's license pursuant to this subchapter, the commissioner shall immediately suspend his or her tow truck operator's license. Notice of the suspension of a tow truck operator's licence pursuant to this section shall be served on the operator and on the person who employs such operator to operate a tow truck. The commissioner shall provide the operator with the opportunity for a hearing within five days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and in addition may impose any penalty or sanction provided for under this subchapter, provided, however, that where the license to operate a motor vehicle held by a tow truck operator has been revoked pursuant to the vehicle and traffic law, the commissioner shall revoke such person's tow truck operator's license issued pursuant to this subchapter.

HISTORICAL NOTE

Section amended L.L. 10/1993 § 4, eff. Jan. 22, 1993.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations

promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-506

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-506 License revocation.

Notwithstanding any other provision of law, any person who holds a license issued pursuant to this subchapter which has been revoked by the commissioner pursuant to this subchapter shall not be permitted to apply for any new license under this subchapter for a period of three years from the date of such revocation. No license to engage in towing shall be issued pursuant to this subchapter to a corporation, partnership, or other association if an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the corporation of the applicant is or has been an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the corporation of a licensee that has had a license revoked pursuant to this subchapter and such revocation is in effect at the time of the license application.

HISTORICAL NOTE

Section amended L.L. 8/1993 § 2, eff. Jan. 22, 1993.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of

such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and

opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may

be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-507

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-507 Posting of information.

a. Every person holding a license to engage in towing shall post, in a conspicuous fashion at the area of the licensee's place of business where a vehicle may be claimed, a sign which clearly and legibly states the licensee's name, address and business telephone number, the license number assigned to such business, the rates permitted to be charged for towing and storage under section 20-509 of this subchapter and the department's telephone complaint number.

b. The following information shall be clearly and legibly displayed and affixed in the manner provided by rule on each side of every tow truck used under a license to engage in towing: the licensee's name, the address under which the tow truck is licensed with the department, and the business telephone number; such rates permitted to be charged for towing and for storage under section 20-509 of this subchapter as are specified in rules of the commissioner; and the department's telephone complaint number. The letters and numerals of such display shall not be less than one and one-half inches in height, with a width of at least one-quarter of an inch, and shall be colored in a contrasting color which is prominent against the background color and is conspicuously visible when such vehicle is in motion.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subd. b amended L.L. 112/1993 § 7, eff. Apr. 28, 1994.

Subd. b amended L.L. 105/1989 § 1.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations

promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-508

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-508 Storage facilities.

Every licensee which stores vehicles shall do so only on premises which meet such specifications as the commissioner shall establish by regulation for safeguarding property.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen

hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such

code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any

other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other

actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-509

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-509 Rates.

a. Except as otherwise provided, charges for the towing of vehicles shall not exceed fifty dollars for the first mile or fraction thereof and four dollars for each additional mile or fraction thereof; provided, however, that where a motor vehicle has been booted by a person licensed pursuant to subchapter 32 of this chapter in a private parking lot as defined in paragraph 3 of subdivision b of section 20-531 of such subchapter and such vehicle is subsequently towed, no additional charge may be imposed for the towing of such vehicle.

b. Except as otherwise provided, charges for storage of vehicles shall not exceed fifteen dollars for each twenty-four hours or fraction thereof for the first three days of storage and seventeen dollars for the fourth day of storage and each day thereafter.

c. The commissioner may, by rule, authorize such additional charges for services necessary to prepare a vehicle for towing, including but not limited to charges for additional labor necessary for positioning a vehicle for towing, which in the judgment of the commissioner shall be fair and reasonable. In promulgating a rule pursuant to this subdivision, the commissioner shall consult with the tow advisory board.

d.(1) No tow truck operator shall require the payment of any fee or charge for towing and storage of a vehicle, or any fee or charge directly or indirectly related to towing and storage of a vehicle, that is not specifically authorized by law or rule.

(2) No charge for the towing and storage of vehicles may be imposed by any person who does not have a license to engage in towing as required by this subchapter at the time that the towing and storage services are performed.

HISTORICAL NOTE

Section amended L.L. 21/1991 § 2, eff. May 4, 1991.

Section added L.L. 28/1987 § 10.

Subd. a amended L.L. 72/2001 § 1, eff. Mar. 26, 2002.

Subd. a amended L.L. 24/1995 § 3, eff. July 9, 1995.

Subd. b amended L.L. 72/2001 § 1, eff. Mar. 26, 2002.

Subd. d amended L.L. 112/1993 § 8 eff. Apr. 28, 1994.

CASE NOTES

¶ 1. A licensed private towing company violated this section by imposing unauthorized charges for illegal parking and storage fees in excess of the maximum statutory rate. The court held that since this violated the standards of honesty, integrity and fair dealing required of all tow truck licensees, the city agency's imposition of a one-month suspension of the towing license, a $5,000 fine and a $3,639 restitution payment was appropriate. Application of V & A Towing, Inc. v. City of New York, 197 A.D.2d 386, 602 N.Y.S.2d 355 (1st Dept. 1993).

¶ 2. The stated statutory limits upon towing fees do not apply to towing of vehicles by City marshals. Burgos v. Airday, 2001 WL 995342 (U.S. Dist. Ct., S.D.N.Y.).

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of

receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a

towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this

local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-509.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-509.1 Rates for arterial tow permittees.

Notwithstanding any other provisions of this subchapter, charges for the towing of disabled passenger vehicles from an arterial roadway by an arterial tow permittee authorized by the commissioner of transportation or the police commissioner shall be seventy dollars for the first mile or fraction thereof and four dollars for each additional mile or fraction thereof.

HISTORICAL NOTE

Section added L.L. 15/2004 § 1, eff. Sept. 1, 2004.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by

certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by

the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of

consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided

that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-510

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-510 Authorization to tow vehicles.

No tow truck operator shall tow any vehicle for which towing is necessary because of a vehicular accident without an authorization signed by the person in charge of the vehicle or a police officer which authorizes the towing of such vehicle and, where applicable, authorizes the storage of such vehicle. The authorization shall be on a form prescribed by the commissioner which shall require such information as the commissioner prescribes by rule, including the following information: the licensee's name, address and business telephone number, the license assigned to such business, the department's telephone complaint number, the rates permitted to be charged for towing and storage under section 20-509 of this subchapter, the location from which and the destination to which the vehicle is to be towed, the year, the make, the model and the department of motor vehicles license plate number of the vehicle to be towed, the name of the person in charge of the vehicle, the time of the request for service and any other information to be prescribed by rule of the commissioner. The form must also contain the following language: "This is an authorization for towing and, where requested, for storage and not an authorization to repair. You have the right to have your vehicle repaired at the facility of this towing company or any other establishment of your choice." Every authorization form shall be executed and copies thereof shall be furnished to such parties and in such manner as the commissioner may provide by rule.

HISTORICAL NOTE

Section amended L.L. 112/1993 § 9, eff. Apr. 28, 1994.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations

promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-511

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-511 Removal of vehicles obstructing traffic.

When a vehicle is situated so as to constitute an obstruction to traffic, and such vehicle is unattended or the person in charge of such vehicle has not arranged for its removal, a police officer or a person designated by the commissioner of transportation may direct its removal by a person licensed to engage in towing, and such licensee shall remove such vehicle to a storage facility which meets the specifications established by the commissioner by regulation pursuant to section 20-508 of this subchapter. Such licensee shall be entitled to charge the person in charge of the vehicle for towing and storage, and where applicable, for the rendering of services to prepare the vehicle for towing at the rates set forth or authorized by section 20-509 of this subchapter.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within

thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504

or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such

actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-512

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-512 Obligation to perform service.

No person licensed under this subchapter shall refuse, without justifiable grounds, to render towing services in whole or in part to a person in charge of a disabled vehicle, other than a vehicle with a maximum gross vehicle weight of less than fifteen thousand pounds that is involved in a vehicular accident, who has requested towing to a destination within the city. For purposes of this section, "justifiable grounds" shall include but not be limited to (a) the absence of an authorization by the commissioner of transportation or the police commissioner which is required to lawfully remove a vehicle from a specific location and (b) an authorization by the commissioner of transportation to provide only such towing services as may be specified by such commissioner to remove a vehicle from a specific location.

HISTORICAL NOTE

Section amended L.L. 58/1996 § 8, eff. Aug. 8, 1996.

Section amended L.L. 112/1993 § 10, eff. Apr. 28, 1994 . Note that the

expiration of the amendment provided by L.L. 112/1993 § 28 was

eliminated by L.L. 94/1997 § 9.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the

administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in

subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-513

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-513 Specific request for services. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 112/1993 § 11, eff. Apr. 28, 1994.

Section added L.L. 28/1987 § 10.

CASE NOTES

¶ 1. A $1,500 civil penalty for violation of this section was not so disproportionate to the offense as to be shocking to one's sense of fairness. Matter of Triangle Auto Body, Inc. v. Department of Consumer Affairs of the City of New York, 198 A.D.2d 226, 604 N.Y.S.2d 792 (2d Dept. 1993).

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law,

notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation

under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-514

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-514 Repairs.

a. No licensee under this subchapter or his or her agent shall make repairs or cause repairs to be made for a fee on any vehicle which requires towing because of a vehicular accident and is towed by such licensee, without first entering into a signed agreement with the person in charge of the vehicle authorizing such repairs. The commissioner shall prescribe the form to be used for such agreement. In addition to any other information required to be set forth in such agreement, the commissioner shall require that such agreement set forth the registration number assigned to the licensee's repair shop pursuant to section three hundred ninety-eight-c of the vehicle and traffic law.

b. In any case where the tow truck operator knows that the person in charge of a vehicle is injured and is to be removed to a hospital, it shall be unlawful to enter into an agreement authorizing repairs with such injured person until the expiration of a period of at least twenty-four hours from the time of the accident, unless the injured person is not admitted to or has been discharged from the hospital before the expiration of such period.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to

engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such

holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or

abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-515

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-515 Prohibited acts.

The following shall be prohibited:

a. maintaining anywhere for use in connection with towing a radio receiving set or other device capable of receiving signals or messages transmitted on the frequencies allocated for police use except in a tow truck for which there exists a current permit issued by the police commissioner pursuant to section 10-102 of the code. In any prosecution for violation of this subdivision, there shall be a rebuttable presumption that such device was used to monitor police transmissions;

b. soliciting or offering any inducements or making representations at the scene of a vehicular accident for the towing of any vehicle involved in an accident or for the performance of any repairs on any vehicle involved in an accident except as may be reasonable and necessary at the scene of an accident for the towing of an accident vehicle on a segment of the arterial highways by an arterial tow permittee who has been authorized by the commissioner of transportation or the police commissioner to provide tow service on such segment;

c. giving or offering to give any payment, fee, reward, or other thing of value, directly or indirectly, for supplying information concerning a disabled vehicle which may require towing service, which information is or may be used to solicit the towing or repair of such vehicle, or having printed any card or other notice offering to give a payment, fee, reward or other thing of value for such information; or

d. at the scene of a vehicular accident, making an estimate of the cost of repairs, offering to make such an estimate, or offering to make repairs, or providing any inducement, discount, reward, or other thing of value to encourage, urge or steer any person to have such accident vehicle towed to a repair facility or to have such accident vehicle repaired at a particular repair facility.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10

Subd. a amended L.L. 112/1993 § 12, eff. Apr. 28, 1994 and applying on and after Dec. 31, 1997, as per L.L. 20/1997 § 1. Note: amendment to subd. a by L.L. 112/1993 § 13 expired Dec. 31, 1997 as per L.L. 20/1997 § 1.

Subd. b amended L.L. 94/1997 § 2, eff. Dec. 30, 1997

Subd. b amended L.L. 58/1996 § 9, eff. Aug. 8, 1996

Subd. b amended L.L. 112/1993 § 12, eff. Apr. 28, 1994 and applying on and after Dec. 31, 1997, as per L.L. 20/1997 § 1

Subd. b amended L.L. 112/1993 § 13, eff. Apr. 28, 1994 and expiring on Dec. 31, 1997, as per L.L. 20/1997 § 1

Subd. d amended L.L. 94/1997 § 2, eff. Dec. 30, 1997

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident,

where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation

as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by

section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-516

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-516 Records.

Every person licensed to engage in towing shall maintain records, ledgers, receipts, bills and such other written records as the commissioner may prescribe by regulation. Such records shall be made available for inspection by the commissioner at his or her request at either the licensee's place of business or at the offices of the department.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten

life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer

affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license

issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any

rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-517

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-517 Transferability.

No license issued under this subchapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen

hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such

code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any

other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other

actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-518

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-518 Removal of vehicles involved in an accident.

a. 1. The commissioner shall establish and administer a program to be known as the "directed accident response program" for the purpose of removing vehicles that have been involved in a vehicular accident and which cannot be safely driven under their own power. The commissioner may by rule prescribe which vehicles involved in vehicular accidents cannot be safely driven under this own power.

2. The commissioner, after consultation with the police commissioner, shall divide the city into zones and shall create for each zone a list in random order of persons licensed to engage in towing who have been approved by the commissioner for participation in the directed accident response program. At any time subsequent to the initial establishment of zones and lists, the commissioner may, after consultation with the police commissioner, modify the zones and reformulate the lists to ensure sufficient towing services throughout the city. Where more than one towing company has been placed on a list of towing companies authorized to remove vehicles in a particular zone, the police department shall summon towing companies from such list on a rotating basis. Any towing company approved for participation in such program after such lists are initially established shall be placed on any such list at the point immediately preceding the last towing company summoned by the police department pursuant to this section. Such lists shall be available at the department for public inspection.

3. The commissioner shall set forth by rules such criteria for participation in the program as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include but not be limited to, possession of a

valid, current license to engage in towing and compliance with this subchapter and any rules promulgated thereunder, ability to respond within a specified period of time to police department calls for towing, ability to make service available on a twenty-four hour basis or on such limited basis as the commissioner shall prescribe, maintenance of specified business hours for redemption of vehicles and maintenance of a specified minimum number of tow trucks and other equipment appropriate for towing, including at least one flat-bed truck suitable for removing accident vehicles. All participants in the program shall maintain a business premises that is under the exclusive control of the participant, is not used by any other towing company and is the premises listed on such participant's license to engage in towing. Such premises shall consist of a location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

4. All persons approved by the commissioner for participation in the directed accident response program, in addition to meeting the requirements of paragraph three of this subdivision and any rule promulgated pursuant to this section, shall (i) have been licensed pursuant to this subchapter for a period of not less than one year; (ii) have not had such license revoked after due notice and opportunity to be heard at any time during the preceding two year period; and (iii) possess a satisfactory record with regard to the operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter.

5. The commissioner may impose a biennial fee for participation in the program in order to defray expenses incurred in its administration.

b.1. Any vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power which has not been removed or caused to be removed from the scene of an accident shall be removed by a tow truck of the towing company participating in the directed accident response program when such company has been directed to do so by the police department. No such vehicle, other than a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, may be removed by a tow operator chosen by the person in charge of such vehicle.

2. No tow truck operator shall travel en route to, or respond to, the scene or the reported scene of a vehicular accident, or remove a vehicle therefrom, unless a specific request for the services of such tow truck operator has been received by such operator or the towing company which employs such operator from a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds, or unless such tow truck operator has been directed to do so by the police department.

3. No tow truck of the towing company participating in the directed accident response program shall fail to or refuse to remove a vehicle that has been involved in a vehicular accident and which cannot be safely driven under its own power when such company has been directed to do so by the police department. Such vehicle shall be towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, or to a location within the city designated by the person in charge of such vehicle, provided, however, that placement of such vehicle in such location is not in violation of any other law. A vehicle towed to a storage facility shall at all times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. Nothing in this section shall be construed to preclude a person in charge of a vehicle that has a maximum gross vehicle weight of at least fifteen thousand pounds from arranging for the removal of such vehicle by a tow operator of such person's choice.

4. Notwithstanding any other provision of this subchapter, a towing company that removes an accident vehicle to its storage facility at the place of business which qualifies such company for participation in the directed accident

response program or to its auxiliary storage facilities approved by the commissioner, shall not charge for the towing of a vehicle registered at a weight of ten thousand pounds or less and the first day of storage for such vehicle a fee exceeding eighty dollars. A towing company participating in the directed accident response program shall not charge for the towing of an accident vehicle registered at a weight of more than ten thousand pounds and the first day of storage for such vehicle a fee exceeding one hundred and twenty-five dollars. Such fees shall be inclusive of all charges for the removing and towing of such vehicle to such storage facility and for the first day of storage.

5. If a person in charge of the vehicle, other than a police officer, requests that an accident vehicle be towed to any location other than the storage facilities at the place of business which qualified the towing company removing the vehicle for participation in the directed accident response program or to its auxiliary storage facilities approved by the commissioner, the towing company may also, in addition to the charges authorized under paragraph four of this subdivision, charge the mileage fee for additional mileage that is authorized under section 20-509 of this subchapter, for the distance traveled from the accident scene to the location where the vehicle is towed; provided, however, that such distance shall be measured on a route available for commercial vehicles from the accident scene to the location to which such vehicle is towed.

c. The police department shall maintain a record of the number of times each towing company participating in the directed accident response program is summoned to remove vehicles and the number of times each such company responds thereto and such other information as the commissioner may prescribe.

c-1. Every towing company approved to participate in the directed accident response program shall:

(1) have on its premises, and accessible to the public, a telephone and bathroom facilities;

(2) provide reasonable access to an accident vehicle during the hours the towing company is required to be open for the redemption of vehicles, at no charge, to the owner or other person in charge of such vehicle, to any insurance agent or insurance adjuster representing the owner of such vehicle, or to any insurance agent or insurance adjuster who furnishes sufficient written proof confirming that he or she is in fact representing any other person having a claim or defense arising from an accident involving such vehicle;

(3) (a) impose no storage charge exceeding the amount permitted pursuant to section 20-509 of this subchapter during any period before the owner or other person in charge of an accident vehicle has signed an authorization for the repair of such accident vehicle with the repair shop that the towing company has registered pursuant to article twelve-A of the vehicle and traffic law, and (b) where such towing company is registered as a repair shop pursuant to article twelve-A of the vehicle and traffic law, impose no storage charge during the period from which the owner or other person in charge of the accident vehicle has authorized repairs by such registered repair shop to one business day after such registered repair shop has notified such owner or other such person in charge of such vehicle to pick up the repaired vehicle. For purposes of determining whether a towing company has violated subparagraphs (a) or (b) of this paragraph, such towing company shall be deemed to have committed the violation of another entity if such towing company and such other entity share a common officer, director, partner, member, manager, principal or shareholder owning five or more percent of the outstanding stock, such towing company has any direct or indirect interest in such other entity, or such towing company and such other entity share any facilities, equipment, or employees.

(4) provide to each owner or other person in charge of the accident vehicle an informational flyer entitled the "consumer bill of rights regarding towing of accident vehicles and repair shops" setting forth the information that the commissioner deems appropriate about the laws relating to the consumer's rights with respect to the towing and repairing of vehicles. Such bill of rights shall be provided to the owner or other person in charge of the accident vehicle before such vehicle is towed from the accident scene; provided, however, that if the owner or other person in charge of such vehicle is injured and is to be removed to a hospital, such bill of rights shall be furnished by the towing company at the time such owner or such other person in charge of such vehicle first appears at the premises of such towing company.

d. In addition to the obligation to make records available for inspection by the commissioner pursuant to section 20-516 of this subchapter, every towing company participating in the directed accident response program shall, at the request of the police department and for the purpose of the enforcement of any regulations promulgated pursuant to this section, make available for inspection by the police department, during reasonable business hours, any records required to be maintained under this subchapter.

e. After due notice and opportunity to be heard, the commissioner may disqualify any towing company participating in the directed accident response program from continued participation in such program for violation of any of the provisions of this section or any rule promulgated hereunder or upon the occurrence of any one or more of the conditions set forth in this subchapter which constitute grounds for suspension or revocation of any license issued under this subchapter; provided, however, that the commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the directed accident response program for up to ten days. Notice of such suspension shall be served on the towing company. The commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension and in addition may impose any penalty or sanction authorized by this subchapter.

f. Any person participating in the directed accident response program who violates the provisions of section 20-496 of this subchapter regarding engaging in towing without having first obtained a license for such towing business and a license plate for each tow truck, driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter without having first obtained a tow truck operator's license, or permitting or authorizing the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license in violation of subdivision c of section 20-496 of this subchapter shall be removed from the list of approved towing companies and shall be ineligible for participation in the directed accident response program for a period of six months. Any such person who has been found guilty of two such violations within the preceding twenty-four month period shall be removed from the list of approved towing companies and shall be ineligible for participation in the directed accident response program for a period of one year.

g. The commissioner may promulgate such additional rules and regulations as he or she deems necessary to effectuate the purposes of this section.

g-1. 1. After due notice and opportunity to be heard, the commissioner may remove or suspend, for a period not to exceed one year, from continued participation in the directed accident response program any towing company participating in such program which: (a) was unavailable to respond to a police dispatch or has failed to respond to a police dispatch for removing a vehicle from the scene of an accident on at least three occasions within any six month period;

(b) failed to provide to any person the informational flyer entitled "consumer bill of rights regarding towing of accident vehicles and repair shops" as required pursuant to paragraph four of subdivision c-1 of this section; or

(c) failed to or refused to release any accident vehicle after presentation of sufficient proof of ownership or owner's written authorization, and upon tender of payment of authorized charges in cash or by major credit card as such credit card payment is provided for in section 20-520.1 of this subchapter and any rules promulgated thereunder.

2. The grounds for suspension or removal of a towing company from continued participation in the directed accident response program specified in paragraph one of this subdivision shall be in addition to, and shall not in any way limit, the commissioner's authority to revoke, suspend, or refuse to renew a license issued pursuant to this subchapter or to suspend or remove from participation any towing company from the directed accident response program pursuant to any other provisions of this subchapter and any rules promulgated thereunder.

h. Expired.

i. The provisions of this section shall not apply to the removal of a vehicle at any location for which the authorization of the commissioner of transportation or the police commissioner is required to remove a disabled vehicle therefrom.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

Subd. a par 1 amended L.L. 112/1993 § 14, eff. Apr. 28, 1994 and applying on and after Dec. 31, 1997, as per L.L. 20/1997 § 1.

Subd. a par 1 amended L.L. 112/1995 § 15, eff. Apr. 28, 1994 and expiring Dec. 31, 1997, as per L.L. 20/1997 § 1.

Subd. a par 3 amended L.L. 94/1997 § 3, eff. June 30, 1998.

Subd. a par 3 amended L.L. 7/1993 § 1, eff. Jan. 22, 1993.

Subd. a par 4 amended L.L. 94/1997 § 4, eff. June 30, 1998.

Subd. a par 4 added L.L. 10/1993 § 5, eff Jan. 22, 1993.

Subd. a par 5 renumbered L.L. 10/1993 § 5, eff. Jan. 22, 1993. (formerly par 4)

Subd. b amended L.L. 112/1993 § 17, eff. Apr. 28, 1994 (Note that the expiration of this amendment was eliminated by L.L. 94/1997 § 9)

Subd. b amended L.L. 112/1993 § 16, eff. Apr. 28, 1994 (Note that this amendment is no longer in effect due to later amendment by L.L. 112/1993 § 17)

Subd. b amended L.L. 7/1993 § 2, eff. Jan. 22, 1993.

Subd. b par 2 amended L.L. 94/1997 § 5, eff. Dec. 30, 1997.

Subd. b par 3 amended L.L. 94/1997 § 6, eff. Dec. 30, 1997.

Subd. b par 4 amended L.L. 72/2001 § 2, eff. Mar. 26, 2002.

Subd. b pars 4, 5 added L.L. 94/1997 § 7, eff. Dec. 30, 1997.

Subd. c-1 added L.L. 94/1997 § 8, eff. June 30, 1998.

Subd. e amended L.L. 112/1993 § 18, eff. Apr. 28, 1994.

Subd. e amended L.L. 10/1993 § 6, eff. Jan. 22, 1993.

Subd. f amended L.L. 112/1993 § 18, eff. Apr. 28, 1994.

Subd. f added L.L. 10/1993 § 7, eff. Jan. 22, 1993.

Subd. g relettered L.L. 10/1993 § 7, eff. Jan. 22, 1993.

(formerly subd. f)

Subd. g-1 added L.L. 94/1997 § 8, eff. June 30, 1998.

Subd. h added L.L. 112/1993 §20, eff. Apr. 28, 1994 and expires Dec.

31, 1997, as per L.L. 20/1997 § 1.

Subd. i relettered and amended L.L. 58/1996 § 10, eff. Aug. 8, 1996.

(formerly subd. g added L.L. 112/1993 § 19, eff. Apr. 28, 1994)

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and

obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs

pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation

in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-518.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-518.1 Special accident response districts.21

[Expired]

HISTORICAL NOTE

Section added L.L. 112/1993 § 21, eff. Apr. 28, 1994 and expiring Dec. 31, 1997, as per L.L. 20/1997 § 1. Note: Provisions of L.L. 112/1993 §§ 1 and 27 provided legislative findings of a need to supplement towing regulation and the Directed Accident Response Program. § 27 required a report on these additional regulations. § 27 was repealed L.L. 89/1996 § 1, amended L.L. 79/1995 § 1.

Subd. i amended L.L. 58/1996 § 11, eff. Aug. 8, 1996.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law,

notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation

under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.
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[Footnote 21]: * Section expires Dec. 31, 1997, as per L.L. 20/1997 § 1.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-519

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-519 Removal of stolen, abandoned and evidence vehicles, vehicles blocking a private driveway and vehicles with certain alarm devices.

a. 1. The commissioner shall establish a program to be known as the "rotation tow program" for the purpose of removing evidence vehicles, vehicles suspected of having been stolen or abandoned other than vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway, and the removal pursuant to section 24-221*22 of the code of vehicles with certain alarm devices.

2. The commissioner, after consultation with the police commissioner, shall divide the city into zones and shall create for each zone a list in random order of persons licensed to engage in towing who have been approved by the commissioner for participation in the rotation tow program. The commissioner may in his or her discretion create from such list separate lists for the removal of evidence vehicles, stolen and abandoned vehicles, the removal pursuant to section 19-169 of the code of vehicles blocking a private driveway, and the removal pursuant to section 24-221* of the code of vehicles with certain alarm devices, respectively. At any time subsequent to the initial establishment of zones and lists, the commissioner may, after consultation with the police commissioner, modify the zones and reformulate the lists to ensure sufficient towing services throughout the city. Where more than one towing company has been placed on a list of towing companies authorized to remove vehicles in a particular zone, the police department shall summon towing companies from such list on a rotating basis. Any towing company approved for participation in such program after such lists are initially established shall be placed on any such list at the point immediately preceding the last

towing company summoned by the police department pursuant to this section. Such lists shall be available at the department for public inspection.

3. The commissioner shall set forth by rule such criteria for participation in the program as he or she deems necessary to effectuate the purposes of this section. Such criteria shall include, but not be limited to, possession of a valid, current license to engage in towing and compliance with this subchapter and any rules promulgated thereunder, ability to respond within a specified period of time to police department calls for towing, ability to make service available on a twenty-four hour basis or on such limited basis as the commissioner shall prescribe, maintenance of specified business hours for redemption of vehicles and maintenance of a specified minimum number of tow trucks and other equipment appropriate for towing. All participants in the program shall maintain a business premises that is under the exclusive control of the participant, is not used by any other towing company and is the premises listed on such participant's license to engage in towing. Such premises shall consist of location that is open to the public, where towing company personnel are employed, calls requesting towing service are received and towers are dispatched, and where all records required by this subchapter or any rules promulgated thereunder are maintained.

4. The commissioner may impose a biennial fee for participation in the program in order to defray expenses incurred in its ad- ministration.

5. On or after March first, nineteen hundred ninety-three, all persons approved by the commissioner for participation in the rotation tow program, in addition to meeteing the requirements of paragraph three of this subdivision and any rule promulgated pursuant to this section, shall (i) have been licensed pursuant to this subchapter for a period of not less than one year; (ii) have not had such license revoked after due notice and opportunity to be heard at any time during the preceding two year period; and (iii) possess a satisfactory record with regard to the operation of a towing business as determined by the commissioner, provided that a determination that such record with regard to the operation of a towing business is unsatisfactory shall be based upon violations of this subchapter.

b. 1. Any vehicle that is suspected of having been stolen or abandoned other than vehicles described in subdivision two of section twelve hundred twenty-four of the vehicle and traffic law, any vehicle that is blocking a private driveway and subject to removal pursuant to section 19-169 of the code, and any vehicle with certain alarm devices which is subject to removal pursuant to section 24-221*23 of the code shall be removed by a tow truck of the towing company participating in the rotation tow program when directed to do so by the police department. If such vehicle appears to have a missing or altered vehicle identification number, the police may direct its removal to the police property clerk. All other vehicles shall be towed to the storage facility of such responding company which meets such specifications as the commissioner shall establish by rule, and shall at all times be stored within such storage facility while the vehicle is in the custody of the towing company. Such storage facility shall be the premises listed on the license of the towing company responding to the police department's direction to remove a vehicle or the premises approved by the commissioner for use by such towing company. Such premises shall be owned, operated or controlled by such towing company and shall not be used by any other towing company. The police department shall expeditiously make every reasonable effort to notify the owner and the national automobile theft bureau or the insurer, if any, of any vehicle that is suspected of having been stolen or abandoned of the vehicle's location and the procedure for retrieval. During the period commencing on the eighth day after the vehicle is removed to such storage facility and ending on the thirtieth day after such removal, such towing company shall transfer any vehicle which has not been claimed into the custody of the police department property clerk.

2. An evidence vehicle shall be removed by a towing company participating in the rotation tow program when directed to do so by the police department. Such vehicle shall be towed to a location designated by a police officer.

3. No tow truck operator shall knowingly remove a vehicle suspected of having been stolen or abandoned or an evidence vehicle without authorization by the police department. No tow truck operator shall knowingly remove a vehicle blocking a private driveway subject to removal pursuant to section 19-169 of the code except as authorized in such section. No tow truck operator shall knowingly remove a vehicle with certain alarm devices subject to removal

pursuant to section 24-221* of the code except as authorized in such section.

c. 1. Notwithstanding any other provision of law, the towing company shall be entitled to charge the owner or other person claiming a vehicle that is suspected of having been stolen or abandoned or a vehicle with certain alarm devices subject to removal pursuant to section 24-221*24 of the code which was directed to be towed by the police department pursuant to this section and which is claimed before the end of the thirtieth day after such vehicle is removed by such towing company amounts not in excess of the following: seventy dollars for the towing of a vehicle registered at a weight of ten thousand pounds or less; one hundred and twenty-five dollars for the towing of a vehicle registered at a weight of more than ten thousand pounds; fifteen dollars per day for the first three days and seventeen dollars for the fourth day of storage and each day thereafter. Upon the transfer of an unclaimed vehicle into the custody of the police department property clerk, the towing company shall be entitled to charge the police department amounts not in excess of the following: sixty dollars plus tolls for the towing of a vehicle suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code or a vehicle with certain alarm devices that was removed pursuant to section 24-221* of the code, to a storage facility and subsequent transfer of such vehicle into the custody of such property clerk during the period of time specified in paragraph one of subdivision b of this section; five dollars per day for the first three days of storage of such vehicle and eight dollars for the fourth day of storage and each day thereafter, provided that in no event shall any towing company be entitled to charge the police department for storage charges incurred after the tenth day of storage. The towing company shall be entitled to charge the polcie department an amount not in excess of sixty dollars plus tolls for the towing of an evidence vehicle to a location designated by a police officer.

2. The police department shall be entitled to charge an owner or other person who claims a vehicle that is suspected of having been stolen or abandoned, a vehicle that was blocking a private driveway and was removed pursuant to section 19-169 of the code, or a vehicle with certain alarm devices that was removed pursuant to section 24-221*25 of the code, which is in the custody of the police department property clerk the charge for towing and storage permitted to be charged by the towing company pursuant to paragraph one of this subdivision, plus tolls, in addition to the fees for storage with the police department property clerk provided by subdivision i of section 14-140 of the code. No vehicle which is in the custody of the police department property clerk which had blocked a private driveway and was removed pursuant to section 19-169 of the code shall be released to the owner or other person claiming such vehicle unless such owner or other person shall, in addition to paying such charges to the police deaprtment property clerk as provided for in this subdivision, present to such property clerk a receipt from the towing company which removed the vehicle indicating payment to such company of the following amount: the charges for towing and storage which would have been due to the towing company pursuant to paragraph eight of subdivision c of section 19-169 of the code had such owner or other person claimed the vehicle from such towing company less the amount paid to the police department for the towing and storage of such vehicle by such company.

3. No towing company shall require the payment of any fee or charge for or relating to towing and storage of a vehicle, or any fee or charge directly or indirectly related to towing and storage of a vehicle, that has been removed pursuant to this section, that is not specifically authorized by law or rule.

d. The police department shall maintain a record of the number of times each towing company participating in the rotation tow program is summoned to remove a vehicle and the number of times each such company responds thereto and such other information as the commissioner may prescribe by rule.

e. In addition to the obligation to make records available for inspection by the commissioner pursuant to section 20-516 of this subchapter, every towing company participating in the rotation tow program shall, at the request of the police department and for the purpose of the enforcement of any rules promulgated pursuant to this section, make available for inspection by the police department, during reasonable business hours, any records required to be maintained under this subchapter.

f. After due notice and opportunity to be heard, the commissioner may disqualify any towing company

participating in the rotation tow program from continued participation in such program for violation of any of the provisions of this section or any rule promulgated hereunder or upon the occurrence of any one or more of the conditions set forth in this subchapter which constitute grounds for suspension or revocation of any license issued under this subchapter; provided, however, that the commissioner, for good cause, may, prior to giving notice and an opportunity to be heard, temporarily suspend a towing company from participation in the rotation tow program for up to ten days. Notice of such suspension shall be served on the towing company. The commissioner shall provide the towing company with the opportunity for a hearing within ten days after the notification of suspension, after which the commissioner shall forthwith make a determination as to whether such suspension should continue and the length of such suspension, and in addition may impose any penalty or sanction authorized by this subchapter.

g. Any person participating in the rotation tow program who violates the provisions of section 20-496 of this subchapter regarding engaging in towing without having first obtained a license for such towing business and a license plate for each tow truck, driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter without having first obtained a tow truck operator's license, or permitting or authorizing the driving or other operation of a tow truck by a person who does not possess a current, valid tow truck operator's license in violation of subdivision c of section 20-496 of this subchapter shall be removed from the list of approved towing companies and shall be ineligible for participation in the rotation tow program for a period of six months. Any such person who has been found guilty of two such violations within the preceding twenty-four month period shall be removed from the list of approved towing companies and shall be ineligible for participation in the rotation tow program for a period of one year.

h. The commissioner may promulgate such additional rules as he or she deems necessary to effectuate the purposes of this section.

HISTORICAL NOTE

Section amended L.L. 110/1993 § 5, eff. Mar. 29, 1994.

Section amended L.L. 22/1988 § 2.

Section added L.L. 28/1987 § 10.

Subd. a par 3 amended L.L. 7/1993 § 3, eff. Jan. 22, 1993.

Subd. a par 5 added L.L. 10/1993 § 8, eff. Jan. 22, 1993.

Subd. b par 1 amended L.L. 7/1993 § 4, eff. Jan. 22, 1993.

Subd. b par 1 amended L.L. 9/1993 § 1, eff. Jan. 22, 1993.

Subd. c amended L.L. 21/1991 § 3, eff. May 4, 1991.

Subd. c par 1 amended L.L. 72/2001 § 3, eff. Mar. 26, 2002.

Subd. c par 1 amended L.L. 9/1993 § 2, eff. Jan. 22, 1993.

Subd. f (laid out second) amended L.L. 112/1993 § 22, eff. Apr. 28,

1994.

Subd. f amended L.L. 10/1993 § 9, eff. Jan. 22, 1993.

Subd. g (laid out second) amended L.L. 112/1993 § 22, eff. Apr. 28,

1994.

Subd. g added L.L. 10/1993 § 10, eff. Jan.22, 1993.

Subd. h relettered L.L. 10/1993 § 10, eff. Jan. 22, 1993.

(formerly subd. g)

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no

further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the

pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section

ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.
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[Footnote 22]: * This § 24-221 was repealed and substance transferred to §§ 24-238, 24-240 by L.L. 113/2005.
23

[Footnote 23]: * This § 24-221 was repealed and substance transferred to §§ 24-238, 24-240 by L.L. 113/2005.
24

[Footnote 24]: * This § 24-221 was repealed and substance transferred to §§ 24-238, 24-240 by L.L. 113/2005.
25

[Footnote 25]: * This § 24-221 was repealed and substance transferred to §§ 24-238, 24-240 by L.L. 113/2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-520

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-520 Removal of disabled vehicles on highways.

Notwithstanding any other provision of this subchapter, where the authorization of the commissioner of transportation or the police commissioner is required to remove a disabled vehicle from any of the highways, parkways, expressways, drives, interstate routes, thruways and bridges set forth in the traffic regulations of the department of transportation, it shall be a violation of this section to effect such removal without such authorization.

HISTORICAL NOTE

Section amended L.L. 58/1996 § 12, eff. Aug. 8, 1996.

Section added L.L. 28/1987 § 10

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law,

notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation

under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-520.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-520.1 Acceptance of major credit cards as prerequisite to participation in city towing programs; violations.

a. For purposes of this section, the following terms shall have the following meanings:

1. "City towing program" shall mean the directed accident response program established pursuant to section 20-518 of this subchapter, the special accident response districts established pursuant to section 20-518.1 of this subchapter, the rotation tow program established pursuant to section 20-519 of this subchapter, the removal of disabled vehicles on highways pursuant to authorization by the department of transportation or the police department, and any program whereby a city agency, pursuant to law, rule or agreement, directs a towing business to tow a vehicle without the prior consent of such vehicle's owner for any reason other than the towing of a vehicle in satisfaction of a judgment for an outstanding debt to the city.

2. "Major credit card" shall mean MasterCard, Visa, American Express, or Discover.

b. No towing business shall participate in any city towing program, unless such towing business shall: (i) satisfactorily demonstrate to the agency administering such program or authorizing such participation, that such business accepts at least two major credit cards for towing in accordance with generally accepted business practices; (ii) notify such agency in writing of the major credit cards accepted and any changes in the major credit cards such towing business accepts; and (iii) display decals identifying the major credit cards accepted on all tow trucks used to tow vehicles in the city towing program in a manner to be prescribed by the com- missioner.

c. Any person participating in a city towing program who shall: (i) fail to accept at least two major credit cards; or (ii) refuse to accept a credit card which such person has informed the administering agency is accepted pursuant to subdivision b of this section, shall, after notice and opportunity to be heard, be liable for a penalty not to exceed one thousand dollars ($1000). Any such person who has been found guilty of three such violations within the preceding twenty-four month period shall be removed from participation in such program for a period of time to be determined by the commissioner or administering agency but not to exceed one year; provided, however that the provisions of this section shall not apply to any contract entered into between a towing business and a city agency prior to the date of adoption by the city council of the local law which added this section.

HISTORICAL NOTE

Section added L.L. 30/1997 § 3, eff. Aug. 26, 1997

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new

license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application

for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-521

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-521 Interagency advisory council.

a. There is hereby created an interagency advisory council consisting of the commissioner of the police department and the commissioner of the department of transportation who shall serve ex-officio, and a representative of the office of the mayor designated by the mayor.

b. The interagency advisory council shall make recommendations to the commissioner concerning the criteria for the issuance of any license required by this subchapter and for authorization to participate in the rotation tow program and the directed accident response program. At the commissioner's request, the interagency advisory council shall advise and assist him or her on any other matter concerning the regulation of towing in the city.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

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The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within

thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504

or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such

actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-522

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-522 Penalties.

The penalties imposed by this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this chapter including but not limited to such sanctions and orders which may be imposed pursuant to section 20-105 of this code. Notwithstanding the provisions of subdivisions a and b of section 20-106 of this code, the following penalties shall apply for violations of this subchapter:

a. 1. Any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars or more than two thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

2. Any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any of such sections or such rules two times within the preceding twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars or more than five thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

3. A person who violates any provision of this subchapter or any of the rules promulgated thereunder and is not subject to the penalties imposed pursuant to paragraphs one or two of this subdivision shall be guilty of an offense

punishable by a fine of not less than one hundred dollars or more than one thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

4. Except as otherwise specifically provided in paragraphs one or two of this subdivision, there shall be no criminal penalties pursuant to this subdivision for a violation of the provisions of sections 20-518 and 20-519 of this subchapter or any rules promulgated thereunder.

b. 1. In addition to the penalties prescribed by paragraph one of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder shall be liable for a civil penalty of not less than two hundred fifty dollars or more than two thousand dollars.

2. In addition to the penalties prescribed by paragraph two of subdivision a of this section, any person who violates the provisions of sections 20-496, 20-509, 20-515 or paragraph two of subdivision b of section 20-518 of this subchapter or any rules promulgated thereunder who has been found guilty of a violation of any such sections or such rules two times within the preceding twenty-four month period shall be liable for a civil penalty of not less than five hundred dollars nor more than five thousand dollars.

3. In addition to the penalties prescribed by paragraph three of subdivision a of this section, any person who violates any provision of this subchapter or any rules promulgated thereunder, other than sections 20-496, 20-509, 20-515 and paragraph two of subdivision b of section 20-518 of this subchapter and any rules promulgated thereunder, shall be liable for a civil penalty of not less than one hundred dollars or more than one thousand dollars.

HISTORICAL NOTE

Section amended L.L. 112/1993 § 23, eff. Apr. 28, 1994 and applying on

and after Dec. 31, 1997, as per L.L. 20/1997 § 1.

Section amended L.L. 112/1993 § 24, eff. Apr. 28, 1994 and expiring

Dec. 31, 1997 as per L.L. 20/1997 § 1.

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a

substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by

section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by

§ 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-522.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-522.1 Violations for operating without a license; seizure; forfeiture.

a. 1. For purposes of this section, the term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of the vehicle and traffic law.

2. For purposes of this section, the term "security interest" shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law.

b. Any police officer or authorized officer or employee of the department, upon service upon the owner or operator of a tow truck of a notice of violation for engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, may seize a tow truck which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with such a violation. Any vehicle seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. The commissioner shall hold a hearing to adjudicate the violation underlying the seizure within five business days after the date of seizure and shall render his or her determination within three business days after the conclusion of the hearing.

c. An owner shall be eligible to obtain release of a vehicle seized pursuant to subdivision b of this section prior to the hearing provided for in such subdivision, where such owner has not previously been found liable for a violation for engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this

subchapter without such license, which violation was committed within a five-year period prior to the violation resulting in seizure. The vehicle shall be released to an eligible owner upon the posting of an all cash bond in a form satisfactory to the commissioner in an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle.

d. Where the commissioner, after adjudication of the violation underlying the seizure, finds that the vehicle has not been used in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, the department shall promptly release such vehicle upon written demand of its owner.

e. Where the commissioner, after adjudication of the violation underlying the seizure, finds that the vehicle has been used in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, then: (i) if the vehicle is not subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department shall release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage; or (ii) if the vehicle is subject to forfeiture pursuant to paragraph one of subdivision g of this section, the department may release such vehicle to an owner upon payment of all applicable fines and civil penalties and all reasonable costs of removal and storage, or may commence a forfeiture action within ten days after the owner's written demand for such vehicle.

f. Any vehicle that has not been claimed by the owner within ten days after adjudication by the commissioner of the violation underlying the seizure shall be deemed by the department to be abandoned. Such vehicle shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law.

g. 1. In addition to any other fine, penalty or sanction provided for in section 20-522 of this code, a vehicle seized pursuant to subdivision b of this section, and all rights, title and interest therein shall be subject to forfeiture to the city upon notice and judicial determination thereof if the owner of such vehicle has been found liable at least two times for using a vehicle in connection with engaging in any activity for which a license is required pursuant to subdivision a of section 20-496 of this subchapter without such license, both of which violations were committed within a five-year period.

2. A forfeiture action which is commenced pursuant to this subdivision shall be commenced by the filing of a summons with notice or a summons and complaint in accordance with the civil practice law and rules. Such summons with notice or a summons and complaint shall be served in accordance with the civil practice law and rules on all owners of the subject vehicle listed in the records maintained by the department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration. A vehicle which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

3. Notice of the institution of the forfeiture action shall be given by first class mail to all persons holding a security interest in such vehicle which security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in New York state, all persons who hold a security interest in such vehicle which security interest has been filed with such state of registration and which persons are made known by such state to the department, at the address provided by such state of registration.

4. Any owner who receives notice of the institution of a forfeiture action who claims an interest in the vehicle subject to forfeiture may assert a claim in such action for the recovery of the vehicle or satisfaction of the owner's interest in such vehicle. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action who claims an interest in such vehicle subject to forfeiture may assert a claim in such action for satisfaction of such person's security interest in such vehicle.

5. Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in the vehicle pursuant to paragraph four of this subdivision, where such person establishes that: (i) the use of the vehicle for the conduct that was the basis for seizure of the vehicle occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by doing all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle in order to avoid the forfeiture of such vehicle; or (ii) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

6. The department or agency having custody of the vehicle, after judicial determination of forfeiture, shall, at its discretion, either: (i) retain such vehicle for the official use of the city or; (ii) by public notice of at least five days, sell such forfeited vehicle at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

7. In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person or persons' interest in the forfeited vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle after deduction of the lawful expenses incurred by the city, including the reasonable costs of removal and storage of the vehicle between the time of seizure and the date of sale.

HISTORICAL NOTE

Section added L.L. 10/1993 § 11, eff. May 22, 1993.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of

consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the

commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of

such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-523

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-523 Enforcement.

Authorized officers and employees of the department and of the police department shall have the power to enforce any provision of this subchapter or any rule or regulation promulgated hereunder.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen

hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such

code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any

other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other

actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-524

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-524 Applicability of subchapter.

a. 1. The commissioner shall grant an exemption from the provisions of this subchapter, other than section 20-520 of this subchapter, to the following persons for the operation of one or more tow trucks that are owned or operated by such person and are used exclusively in the business of such person:

(a) a vehicle dismantler, salvage pool, mobile car crusher, or itinerant vehicle collector registered pursuant to section four hundred fifteen-a of the vehicle and traffic law, a scrap processor licensed under article six-C of the general business law and certified by the commissioner of motor vehicles of the state of New York as a scrap processor, and a scrap collector certified by the commissioner of motor vehicles of the state of New York as a scrap collector who complies with all licensing or permitting requirements applicable to such business;

(b) a franchised public transportation operator;

(c) a common carrier of passengers by motor vehicle, a common carrier of property by motor vehicle, a contract carrier of passengers by motor vehicle, and a contract carrier of property by motor vehicle as such terms are defined in subdivisions seven, eight, nine and ten, respectively, of section two of the transportation law when such common carriers possess such appropriate operating authority as is required by applicable law;

(d) a public utility company or a public utility corporation as such terms are defined in subdivisions twenty-three

and twenty-four, respectively, of section two of the public service law;

(e) an owner of a vehicle licensed pursuant to chapter five of title nineteen of the code;

(f) an operator of a school bus as such term is defined in section one hundred forty-two of the vehicle and traffic law; and

(g) a motor-vehicle rental agency.

2. An application for such exemption shall be made to the commissioner in the form and manner prescribed by rule of the commissioner. The commissioner may impose a reasonable application fee to cover the administrative costs of granting an exemption. A certificate of exemption shall be issued for each tow truck utilized by such person as described above and shall be displayed in the manner prescribed by rule of the commissioner. No certificate issued pursuant to this subdivision shall be assignable or transferable or used for any tow truck other than the tow truck for which it was issued.

b. The licensing requirements of subdivision b of section 20-496 of this subchapter shall not be applicable to an individual employed by a person who has been granted a certificate of exemption pursuant to subdivision a of this section when such individual is driving or otherwise operating a tow truck, or assisting in any activity for which a license is required under this subchapter, and a certificate of exemption has been issued for the tow truck utilized by such individual.

c. This subchapter shall not be applicable to a governmental agency or to any person who performs towing and storage services exclusively on the premises of any facility operated by the port authority of New York and New Jersey, or to an individual employed by either such entity when driving or otherwise operating a tow truck or assisting in any activity for which a license is required under this subchapter in the course of his or her employment.

d. The commissioner may by rule exempt from the provisions of section 20-509 and 20-514 the towing of certain classes of vehicles based on their dimension, weight, or dimension and weight.

e. Notwithstanding the provisions of subdivision c of this section, the provisions of section 20-528 of this subchapter shall be applicable to all city marshals and city agencies.

HISTORICAL NOTE

Section amended L.L. 10/1993 § 12, eff. May 22, 1993.

Section added L.L. 28/1987 § 10.

Subd. a par 1 subpars (a), (c) amended L.L. 112/1993 § 25, eff. Apr.

28, 1994.

Subds. b, c amended L.L. 112/1993 § 26, eff. Apr. 28, 1994.

Subd. e added L.L. 3/1996 § 1, eff. Feb. 11, 1996.

CASE NOTES

¶ 1. A city marshal is acting in a governmental capacity. Since Sec. 20-524 exempts governmental agencies from statutory provision such as Sec. 20-509, the limits stated in Sec. 20-509 regarding towing fees do not apply to towing of vehicles by City marshals. Burgos v. Airday, 2001 WL 995342 (U.S. Dist. Ct., S.D.N.Y.).

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the

administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in

subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-525

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-525 Regulations.

The commissioner may promulgate such rules and regulations as he or she deems necessary to effectuate the purposes of this subchapter.

HISTORICAL NOTE

Section added L.L. 28/1987 § 10.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen

hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such

code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any

other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other

actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-526

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-526 Tow advisory board.

There shall be a tow advisory board to consist of nine members to be appointed for two-year terms by the commissioner, upon consultation with the council, to advise the commissioner concerning matters relating to the tow industry, including the preparation of rules and regulations for the class of vehicles commonly known as tow trucks and for the owners and drivers thereof. Members of the tow advisory board shall be chosen from licensed persons who own or operate tow trucks or who are officers in corporations that own or operate two trucks and other individuals who have knowledge of the towing industry, its customers and its business practices, including but not limited to, representatives of auto insurance companies and entities having a pre-existing contractual obligation or business arrangement to provide towing services to their customers.

HISTORICAL NOTE

Section amended L.L. 26/1993 § 1, eff. Apr. 19, 1993.

Section added L.L. 63/1987 § 1.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of

such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and

opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may

be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-527

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-527 Credit cards to be accepted in payment.

Any person licensed pursuant to the provisions of this subchapter shall accept payment in person by credit card for any fees incurred in accordance with generally accepted business practices.

HISTORICAL NOTE

Section added ch. 78/1993 § 2, eff. Nov. 28, 1993.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen

hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such

code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any

other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other

actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-528

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 31 TOWING VEHICLES*3

§ 20-528 Police precinct notification.

a. Within two hours subsequent to the towing of any motor vehicle pursuant to any provision of this code, any rules promulgated pursuant thereto or any rules promulgated by the department of transportation pursuant to any other provision of law, the tow truck operator or his or her designee shall notify the local police precinct either in person or by electronic submission that the vehicle was towed. Such information shall be made available, upon request, to the owner of the vehicle or to any person authorized by the owner to have possession of the vehicle. Such list shall include the make and model of the vehicle, its license plate number, the reason why the vehicle was towed and the location and hours during which the vehicle may be retrieved.

b. The provisions of subdivision a shall not apply where such towing is conducted in the physical presence of or with the consent of a person in charge of the vehicle or where, within two hours of such towing, information relating to such towing is entered by or on behalf of a governmental official or agency into the New York statewide police information network.

HISTORICAL NOTE

Section added L.L. 3/1996 § 2, eff. Feb. 11, 1996.

FOOTNOTES

3

[Footnote 3]: * Subchapter added L.L. 28/1987 § 10. Note further provisions of such local law:

Section 1. Declaration of legislative intent and findings. The council finds that the licensing and regulation of the towing industry continues to serve the purpose of protecting the public from over-reaching by certain members of the towing industry and from reckless conduct of certain such members which can threaten life and property. The council reaffirms the declaration made in local law number fifty-four for the year nineteen hundred sixty-five that the regulation of the towing of disabled vehicles is necessary to safeguard the public against fraudulent practices by tow truck operators.

The council finds that it has been a persistent and widespread practice of tow truck operators to monitor police radio transmissions to learn of accidents and then to race to accident sites with the intent of securing the towing and repair work. In so doing, speed limits and other traffic regulations are violated, often posing a substantial threat to life and property. The council finds that the most effective way to curb this practice is to authorize only such towing operators actually necessary to respond to an accident to do so. To this end, the provisions of this local law will empower the commissioner of consumer affairs to establish a program under which the police department will summon an authorized towing company to respond to the scene of an accident, where an owner or operator of a vehicle has not made arrangements for removal. The council finds further that in order to discourage tow truck operators from racing to accident sites, it is necessary to prohibit such operators from soliciting at the accident scene and from maintaining in the course of their business radios capable of receiving police signals or messages.

The council finds that the regulation of the towing industry is a more appropriate function for the department of consumer affairs than the police department. Moreover, the power vested in the department of consumer affairs to "padlock" unlicensed businesses and seize the devices used in the operation of those businesses has proven to be an effective deterrent to other unlicensed activities.

The council finds it appropriate at this time to strengthen existing towing laws and to create a more comprehensive regulatory scheme. The provisions of this local law will serve to regulate any towing performed in the city for consideration except where specifically exempted. The council finds that the provisions of this local law will afford greater protection to the public by requiring that, as a pre-requisite to licensing, towing companies furnish a surety bond to ensure payment of fines in the event of noncompliance with towing laws and obtain adequate liability insurance, and by authorizing under appropriate circumstances the immediate suspension of a tow truck operator's license.

§ 2. Section four of local law number seventy-five for the year nineteen hundred eighty-five is amended to read as follows:

This local law shall take effect ninety days after its enactment into law and shall expire and be of no further effect two years after its effective date, except with respect to any rights, duties, liabilities, violations, penalties or other obligations arising or occurring thereunder during such period of effectiveness. [After the expiration of this local law the provisions of subdivisions (s), (t) and (u) of section 436-7.0 of Title A of chapter eighteen of the administrative code of the city of New York as they were in force and effect on the date immediately preceding the repeal of such subdivisions by section two of this local law shall be deemed to be reenacted and shall thereafter be in full force and effect as if this local law had not been enacted.]

§ 11. Any towing car license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law which is in full force and effect on the effective date of this local law shall continue in full force and effect as if it constituted a license to

engage in towing issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car license issued by the police commissioner files an application for a new license with the department of consumer affairs within thirty days after such effective date. Such holder of a towing car license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any rights or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car license pursuant to the provisions of section 20-504 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car license issued by the police commissioner a new license unless such holder meets all the requirements for issuance set forth in sections 20-498, 20-499, 20-500, 20-501, and 20-502 of such code as added by section ten of this local law and any regulation promulgated thereunder and any other requirements for the issuance of a license to engage in towing set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such holder of a towing car license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in section 20-504 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any license to engage in towing issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 12. Any towing car driver's license issued by the police commissioner pursuant to section 10-145 of the administrative code of the city of New York repealed by section three of this local law shall continue in full force and effect as if it constituted a tow truck operator's license issued by the commissioner of consumer affairs pursuant to the provisions of section 20-498 of such code as added by section ten of this local law, provided that the holder of such towing car driver's license issued by the police commissioner files an application for a new license with the commissioner of consumer affairs within thirty days after such effective date. Such holder of a towing car driver's license issued by the police commissioner shall, on and after the effective date of this local law, be subject to the provisions of section ten of this local law, notwithstanding any right or privileges afforded to such holder under section 10-145 of such code repealed by section three of this local law and, during the pendency of such application, such towing car driver's license issued by the police commissioner shall remain in full force and effect until such time as the commissioner of consumer affairs either suspends or revokes such towing car driver's license pursuant to the provisions of sections 20-504 or 20-505 of such code as added by section ten of this local law, issues a new license or denies the application for such new license. The commissioner of consumer affairs shall refuse to issue to any such holder of a towing car driver's license issued by the police commissioner a new license unless such holder meets the requirements for issuance set forth in subdivision b of section 20-498 of such code as added by section ten of this local law and any regulations promulgated thereunder and any other requirements for the issuance of a tow truck operator's license set forth in subchapter thirty-one of chapter two of title twenty of such code as added by section ten of this local law or in any regulations promulgated thereunder. The commissioner of consumer affairs may refuse to issue to any such

holder of a towing car driver's license issued by the police commissioner a new license if, after due notice and opportunity to be heard, he or she determines that such holder has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for license suspension or revocation as set forth in sections 20-504 or 20-505 of such code as added by section ten of this local law or such holder has, before the effective date of this local law, engaged in conduct which would have constituted a basis for license suspension or revocation under section 10-145 of such code repealed by section three of this local law. If a holder of a towing car driver's license issued by the police commissioner fails to file an application for a new license with the commissioner of consumer affairs within thirty days after the effective date of this local law, such towing car driver's license issued by the police commissioner shall become null and void and be of no further effect. Notwithstanding any other provision of law, the license fee for any tow truck operator's license issued by the commissioner of consumer affairs pursuant to section 20-498 of such code as added by section ten of this local law to a person who holds a towing car driver's license issued by the police commissioner referred to above shall be reduced by an amount which is equal to the license fee paid to the police department prorated to the unexpired portion of the license term.

§ 13. Any person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned pursuant to subdivision 1 of section 14-140 of the administrative code of the city of New York repealed by section seven of this local law who on the effective date of this local law is listed on a rotation list maintained by the police department pursuant to subdivision 1 of section 14-140 of such code repealed by section seven of this local law and continues to be so authorized shall on and after the effective date of this local law continue to be so authorized as if such person had been authorized by the commissioner of consumer affairs to participate in the rotation tow program pursuant to section 20-519 of such code as added by section ten of this local law, provided that such person files an application to participate in such rotation tow program with the department of consumer affairs within thirty days after such effective date. Such person shall, on and after the effective date of this local law, be subject to the provisions of section 20-519 of such code as added by section ten of this local law, notwithstanding any rights or privileges afforded to such person under section 10-145 of such code repealed by section three of this local law or subdivision 1 of section 14-140 of such code repealed by section seven of this local law and, during the pendency of such application, such person shall be authorized to remove vehicles pursuant to such section 20-519 of such code until such time as the commissioner of consumer affairs disqualifies such person from participating in the rotation tow program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or denies such application for participation in such program. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove vehicles suspected of having been stolen and abandoned unless such person meets all the requirements for participation in such program set forth in section 20-519 of such code as added by section ten of this local law and regulations promulgated pursuant to such section 20-519. The commissioner of consumer affairs shall deny an application for participation in the rotation tow program submitted by any person authorized by the police commissioner to remove such vehicles if, after due notice and opportunity to be heard, he or she determines that such person has, on or after the effective date of this local law, engaged in conduct which constitutes a basis for disqualification from participation in such program pursuant to subdivision f of section 20-519 of such code as added by section ten of this local law or such person has, before the effective date of this local law engaged in conduct which would have constituted a basis for suspending or revoking authorization to remove vehicles suspected of having been stolen or abandoned pursuant to the regulations promulgated under subdivision 1 of section 14-140 of such code repealed by section seven of this local law. If a person authorized by the police commissioner to remove vehicles suspected of having been stolen or abandoned fails to file an application to participate in such rotation tow program with the department of consumer affairs within thirty days after the effective date of this local law, such person's authorization by the police department shall become null and void and be of no further effect.

§ 14. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or the police department or any officer of such department, shall be affected or

abated by the adoption of this local law or by anything contained herein; but all such actions or proceedings may be continued notwithstanding that certain functions, powers and duties of the police department or any officer thereof have by this local law been assigned or transferred to the department of consumer affairs; and such actions and proceedings may be prosecuted or defended by the commissioner of consumer affairs or the officer to which such functions, powers and duties have been assigned or transferred by this local law.

§ 15. This local law shall take effect two hundred and seventy days after its enactment into law provided that the department of consumer affairs may promulgate on or after the date of enactment of this local law any rules or regulations necessary for the implementation of the provisions of this local law and may take any other actions necessary for the administration of this local law.

§ 16. No later than the forty-fifth day after the date of enactment of this local law the commissioner of consumer affairs shall submit a written report to the council on his plan for implementing the regulatory authority concerning the licensing, inspection, enforcement, adjudication of violations and administration over the tow truck industry, as provided in § 20-498 of the administrative code of the city of New York as added by § 10 of this local law. The commissioner shall submit a copy of the final regulations promulgated pursuant to this local law to the council as soon thereafter as is expeditiously possible.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-531

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-531 License required; definitions.

a. 1. No person shall engage in booting without having first obtained a license therefor pursuant to this subchapter.

2. Notwithstanding the provisions of paragraph one of this subdivision, an individual shall not require a license issued pursuant to this subchapter where such individual is an employee of and is authorized or directed to engage in booting by a person required to be licensed by this subchapter.

b. For the purposes of this subchapter, the following terms shall have the following meanings:

1. "Boot" or "booting" shall mean the act of placing on a parked motor vehicle a mechanical device that is designed to be attached to the wheel or tire or other part of such vehicle so as to prohibit its usual manner of movement;

2. "Person" shall mean any individual, partnership, corporation, association, firm or other business entity; and

3. "Private parking lot" shall mean any area of private property near or contiguous to premises having one or more stores or business establishments which is used for the parking of motor vehicles of customers or patrons or any one who frequents such stores and business establishments, but shall be limited to such areas as are provided to the public without charge.

c. No licensee shall boot, permit or authorize booting in violation of the provisions of this subchapter or section

19-169.2 of this code or any rule promulgated pursuant to this subchapter or section 19-169.2 of this code.

d. A licensee shall be liable for any violation by such licensee's employees or agents of this subchapter, section 19-169.2 of this code or any rule promulgated pursuant to this subchapter or section 19-169.2 of this code.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

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NYC Administrative Code 20-532

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-532 Application; fingerprinting; fee; term.

a. An application for any license required under this subchapter or for any renewal thereof shall be made to the commissioner in such form and manner as the commissioner shall prescribe by rule. An applicant for any such license shall be fingerprinted by the department for the purpose of securing criminal history records from the state division of criminal justice services and shall pay a processing fee as required by the state division of criminal justice services. Where the applicant is a sole proprietorship, fingerprints shall be taken of the owner thereof; where the applicant is a partnership, fingerprints shall be taken of the general partners thereof; where the applicant is a corporation, association, firm or other business, fingerprints shall be taken of the officers, principals, directors, and stockholders of more than ten percent of the outstanding stock. Any person required to be fingerprinted hereunder shall furnish to the department three current passport size photographs of such persons. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

b. There shall be a biennial fee for a license pursuant to this subchapter which shall be three hundred and forty dollars.

c. All licenses issued pursuant to this subchapter shall expire on December thirty-first, in odd-numbered years, unless sooner suspended or revoked.

d. The commissioner may refuse to issue any license required under this subchapter if such applicant or any employee or agent of such applicant has engaged in conduct which would constitute a basis for license suspension or revocation under this title.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

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Administrative Code of the City of New York

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NYC Administrative Code 20-532.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-532.1 Bond required.

As a condition of the issuance of a license to engage in booting, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of five thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter, section 19-169.2 of this code or subchapter one of chapter five of this title and any rules promulgated thereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation relating to a violation of this subchapter, section 19-169.2 of this code or subchapter one of chapter five of this title and any rules promulgated thereunder, within thirty days of its imposition, or any final judgment recovered by any person whose motor vehicle was booted by the applicant and was damaged thereby. The commissioner may in his or her discretion, after a public hearing upon five days notice published in the City Record, increase the amount of the surety bond required by this section to an amount not to exceed twenty-five thousand dollars. The commissioner may by rule authorize an applicant, in lieu of furnishing a bond, to satisfy the requirements of this section by depositing cash in an amount equal to the amount of the surety bond required by this section or by rule of the commissioner.

HISTORICAL NOTE

Section added L.L. 88/1997 § 3, eff. Jan. 16, 1998.

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Administrative Code of the City of New York

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NYC Administrative Code 20-533

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-533 Suspension, revocation and renewal of licenses.

After due notice and opportunity to be heard, the commissioner may suspend, revoke or refuse to renew any license required by this subchapter upon a determination that the licensee or any employee or agent of such licensee has violated any provision of this subchapter, section 19-169.2 of this code or any rule promulgated pursuant to this subchapter or section 19-169.2 of this code.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-534

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-534 Records.

Every person licensed to engage in booting shall maintain books, records, ledgers, receipts, bills and such other written records as the commissioner may prescribe by rule. Such records shall be made available for inspection by the commissioner at his or her request at either the licensee's place of business or at the offices of the department.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

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NYC Administrative Code 20-535

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-535 Charges and release of vehicles.

a. The charge to release a motor vehicle that has been booted on a private parking lot shall be no more than twenty-five dollars. Notwithstanding the provisions of any other law, where a motor vehicle has been booted on a private parking lot and subsequently towed from such parking lot, no additional charge may be imposed for the towing of such vehicle.

b. Any person who has booted a motor vehicle shall release such vehicle within thirty minutes of receiving a request for such vehicle's release; provided, however, that payment of any charge for booting is made at or prior to the time of such vehicle's release.

c. The owner or person in control of a vehicle which has been booted by a licensee or such licensee's employee or agent shall be permitted to pay any charge for booting at the location where such vehicle was booted and the licensee, or other person authorized to accept payment, shall accept such payment, in person by credit card in accordance with generally accepted business practices.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

Subd. a amended L.L. 90/1997 § 2, eff. Jan. 16, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-536

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-536 Enforcement and penalties.

Authorized employees of the department, or the department of transportation, or any police officer, shall have the power to enforce any provision of this subchapter or any rule promulgated pursuant thereto. Any person who violates any provision of this subchapter or any rule promulgated pursuant thereto shall be liable for a civil penalty of not less than five hundred nor more than one thousand dollars.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-537

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-537 Rules.

The commissioner shall promulgate such rules as the commissioner deems necessary to effectuate the provisions of this subchapter.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

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NYC Administrative Code 20-538

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

SUBCHAPTER 32 BOOTING OF MOTOR VEHICLES

§ 20-538 Applicability.

The provisions of this subchapter shall not apply to the booting of a motor vehicle by:

a. The city, any other governmental entity, or a person acting under the direction of the city or such governmental entity, when such booting is authorized by any other provision of law or any rule or regulation promulgated pursuant thereto; or

b. Any person who has a lien pursuant to section 184 of the lien law and who detains such motor vehicle in his or her lawful possession.

HISTORICAL NOTE

Section added L.L. 24/1995 § 4, eff. July 9, 1995.

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NYC Administrative Code 20-21

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 1 MOTION PICTURE EXHIBITIONS [Repealed]

Former Subchapter 1 Motion Picture Exhibitions §§ 20-201-20-204 repealed L.L. 30/1995 § 2, eff. June 30, 1995. § 20-201 amended L.L. 11/1995 § 1, added chap 907/1985 § 1. (This section was derived from § B32-22.0 added chap 929/1937 § 1, subd. 2 amended L.L. 92/1977 § 2). §20-202 amended L.L. 11/1995 § 1, added chap 907/1985 § 1. (This section was derived from § B32-23.0 added chap 929/1937 § 1). § 20-203 added chap 907/1985 § 1, subds. a, b amended L.L. 11/1995 § 3, 4. (This section was derived from § B32-24.0 added chap 929/1937 § 1, subd. c repealed L.L. 74/1977 § 3, subd. b repealed and added L.L. 92/1977 § 3, subd. b amended L.L. 30/1983). § 20-204 amended L.L. 59/1996 § 81, amended L.L. 11/1995 § 5, added chap 907/1985 § 1. (This section was derived from § B32-25.0 added chap 929/1937 § 1, amended chap 100/1963 § 571).

CASE NOTES FROM FORMER SECTION 20-204

¶ 1. Commissioner of Licenses **held** to have been without authority to refuse to grant a license for operating a theatre on ground a theatre at the proposed location would bring increased traffic and create a traffic danger for travelers on the street, since no undefined general power could be conferred upon the Commissioner, and neither by express language nor fair implication has power been conferred upon him to withhold a license for a theatre from an applicant of good character where the proposed theatre would violate no provision of law nor rule or regulation of a department charged with protection of health or safety of the People. Code of Ordinances, ch. 3, § 33, providing for issuance of licenses by the Commissioner and requiring him to "pass upon the location of the theatre", did not confer such

authority.-Small v. Moss, 279 N.Y. 288 [1938], aff'd, 255 App. Div. 1, 5 N.Y.S. 2d 432 [1938].

¶ 2. Revocation of petitioner's "Matron theatre license", which required, among other things, that unaccompanied children sit in a certain section of the theatre under supervision of a matron, **held** not to have been arbitrary, where police officers found children sitting in sections of the theatre other than that provided for them and unattended by an adult, and petitioner was thereafter convicted of violating P.L. § 484. A proper hearing was accorded petitioner, since at the hearings before the Commissioner of Licenses the police officers were present and one of them testified and was cross-examined by petitioner's attorney, petitioner also testified, and after such hearings petitioner's "matron theatre license" was revoked, but a license for the theatre was granted (Admin. Code, §§ B32-28.0, B32-29.0).-In re Levco Theatre Corp., 180 Misc. 335, 42 N.Y.S. 2d 30 [1943].

¶ 3. Considerations of public morals and good taste **held** not to prohibit erection of theatre near proposed synagogue where it appeared that foundation for synagogue had been laid over two years prior and that since that time no further work had been done, and no facts were presented to indicate when construction would go forward.-Matter of Cohen (Moss), 99 (28) N.Y.L.J. (2-3-38) 567, Col. 5 T.

¶ 4. Commissioner of Licenses had no right to deny application for a site approval to operate and maintain a motion picture theatre on the south-east corner of 59th Street and Park Avenue, Manhattan, on ground that there was pending before the City Planning Commission a resolution to rezone the area from a retail district, wherein maintenance of such a theatre was permitted, to a restricted retail district in which operation of such a theatre was prohibited. Hence, the Commissioner was directed to issue to petitioner a site approval notwithstanding thereafter the City Planning Commission actually adopted a zoning resolution so as to prohibit operation of motion picture theatres in such district. However, such rezoning would not become legally effective until the resolution of the Planning Commission was filed with the Board of Estimate and 30 days thereafter elapsed without adverse action by the Board.-In re Reade (Moss), 186 Misc. 156, 58 N.Y.S. 2d 390 [1945].

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 2 ADMISSION OF CHILDREN [Repealed]

Former Subchapter 2 Admission of Children §§ 20-207-20-210 repealed L.L. 62/1992 § 1, eff. July 23, 1992. Subchapter 2 added chap 907/1985 § 1 and derived from §§ B32-28.0-B32-31.0 added chap 929/1937 § 1, § B32-31.0 subd. e amended chap 100/1963 § 572.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-23

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 3 COMMON SHOWS [Repealed]

Former Subchapter 3 Common Shows §§ 20-211-20-214 repealed L.L. 72/1995 § 3, eff. Jan. 16, 1996. Subchapter 3 was added chap 907/1985 § 1. § 20-211 amended in part L.L. 104/1993 § 2, L.L. 1/1989 § 1. (This section was derived from § B32-40.0 added chap 929/1937, amended L.L. 45/1948, L.L. 47/1951, L.L. 24/1956, L.L. 43/1959, L.L. 29/1976, L.L. 92/1977). § 20-211.1 added L.L. 82/1991 § 1. § 20-212 amended in part L.L. 1/1989 § 2. (This section was derived from § B32-41.0 added chap 929/1937, amended L.L. 25/1956, L.L. 70/1957, L.L. 43/1959, L.L. 92/1977 § 6, 7). (§ 20-213 was derived from § B32-42.0 chap 929/1937, amended L.L. 71/1957, L.L. 43/1959.) (§ 20-214 was derived from § B32-43.0 added chap 929/1937, amended L.L. 43/1959, L.L. 74/1977 § 3.)

CASE NOTES FROM FORMER SECTION 20-211

¶ 1. A bank ball game, which is a form of alley roll game, is not a common show within meaning of Administrative Code § B32-40.0.-Amusement Enterprises, Inc., v. Fielding, 189 Misc. 625, 64 N.Y.S. 2d 857 [1946], modified, 272 App. Div. 917, 71 N.Y.S. 2d 66 [1947].

¶ 2. Administrative Code § B32-40.0, defining "common show" as including certain specifically enumerated types of amusement "and all other shows of like character," did not mean to limit the terms "common show", but to state what they should be deemed to include, leaving many other performances and shows than those mentioned in the provisions of the Act.-People v. Lane-Marvey Corp., 203 Misc. 413, 114 N.Y.S. 2d 467 [1952].

¶ 3. Apparatus consisting of a mechanical pony, electrically operated by the insertion of a ten-cent piece in a slot box attached to the mechanism, which in operation produced a vibrating up and down motion for about two minutes in simulation or sensation of riding a real pony, **held** to constitute a "common show" within meaning of Administrative Code § B32-40.0, and defendant was therefore required to have a license for a mechanical pony located in its store, near the front, to which the public was invited.-Id.

¶ 4. The owner of a drive-in theatre which maintained a playground including power-driven equipment was required to be licensed as the operator of a "common show" within the meaning of the Code.-Whitestone Bridge Drive-In Theatre Inc. v. O'Connell, 14 A.D. 2d 51, 217 N.Y.S. 2d 371 [1961].

¶ 5. Intervenor which distributed and maintained electrically operated rocket space ships and similar devices on a fixed base with a seat intended for a single child who by insertion of a dime might obtain a one-minute ride, **held** to be operating a common show, subject to the licensing provisions of the Administrative Code. That the device might not be utilized by more than one child at any one time, was not determinative.-Lane-Marvey Corp., (Rocket Associates, Inc.) v. McCaffrey, 204 Misc. 166, 119 N.Y.S. 2d 830 [1953], aff'd, 282 App. Div. 1013, 126 N.Y.S. 2d 197 [1953].

¶ 6. Plaintiff, which was engaged in business of distributing and maintaining an electrically operated mechanical pony on a fixed base with a saddle, intended for a single child who upon insertion of a dime could obtain a ride for one minute, and which had been found guilty in the Magistrate's Court of violating Administrative Code § B32-41.0 in operating a common show without a license, from which judgment of conviction an appeal was now pending, **held** not entitled to maintain an action for a declaratory judgment that it was not operating a common show. A declaratory judgment is not available to correct an alleged error in respect of an adjudication which is subject to review by appeal.-Lane-Marvey Corp. (Rocket Associates, Inc.) v. McCaffrey, 204 Misc. 166, 119 N.Y.S. 2d 830 [1953], aff'd, 282 App. Div. 1013, 126 N.Y.S. 2d 197.

¶ 7. Notwithstanding contention of defendant City of New York that a declaratory judgment might not be utilized to prevent enforcement of a penal statute save in exceptional circumstances, intervenor which distributed and maintained electrically operated rocket space ships and similar devices on a fixed base, with the seat intended for a single child who by insertion of a dime might obtain a one-minute ride, **held** entitled to maintain an action for a declaratory judgment that it was not operating a common show and was therefore not subject to the license requirements of Administrative Code. In the instant case it did not appear that the dominant purpose of the action was to establish immunity from prosecution.-Id.

¶ 8. Section is constitutional as applied to common show games in the nature of pinball machines it being the use to which such devices are put rather than their inherent characteristics which led to their prohibition and this legislation is reasonably related to the "evils associated with gambling."-Albert Simon, Inc. v. Meyerson, 36 N.Y. 2d 300, 327 N.E. 2d 801, 367 N.Y.S. 2d 755 [1975].

¶ 9. Defendant who had two pinball machines and three other mechanical devices which he maintained for the purpose of promoting his music business came within the scope of the common game show arcade and the application for an injunction brought by the city and the consumers affairs department would be granted.-City of N.Y. v. 86th St. Music Center, Inc., 180 (98) N.Y.L.J. (11-22-78) 10, Col. 3B.

¶ 10. The game machines Penny Falls, Splashdown and Silver Falls are games of chance which eject something of value for which licenses may not properly be issued.-Sport & Fun, Inc. v. Ratner, 82 App. Div. 890 [1981].

¶ 11. Dept. of Consumer Affairs regulation which fixes 200 ft. boundary around certain schools within which video games are prohibited is not unconstitutionally vague nor without substantial relationship to legitimate purpose. Video games are also not a form of speech protected by the 1st Amend.-Tommy & Tina, Inc. v. Dept. of Consumer Affairs, 189(16) N.Y.L.J. (1-24-83) 6, Col. 3B.

¶ 12. Ct. upheld dept. decision that petitioner was operating arcade games without a license within defn. of a

"common show" even though games were free of charge.-Beefsteak Charlie's Inc. v. Dept. of Consumer Affairs, 190(98) N.Y.L.J. (11-22-83) 6, Col. 3B.

CASE NOTES FROM FORMER SECTION 20-212

¶ 1. In the exercise of its administrative powers the City of New York has a right to require that certain businesses, particularly those catering to the public, be licensed before they can operate.-People v. Lane-Marvey Corp., 203 Misc. 413, 114 N.Y.S. 2d 467 [1952].

¶ 2. A separate license must be obtained for each common show operated. Therefore when defendant, who was licensed to operate a shuffleboard machine, installed a pool machine without obtaining an additional license, he was guilty of violating the licensing statute.-People v. Bonanno, 5 Misc. 2d 304, 161 N.Y.S. 2d 282 [1956].

¶ 3. A licensed common show operator is permitted to operate any number of devices within the statutory definition. Hence, defendant was not guilty of violating this section where he operated a miniature pool table without a license where he also maintained a licensed electric shuffleboard.-People v. Corrigan, 4 N.Y. 2d 965, 177 N.Y.S. 2d 493, 152 N.E. 2d 520 [1958].

¶ 4. If Commissioner of Licenses might consider events which occurred subsequent to filing of application for license to operate "alley roll" and other games, petitioner was entitled to do the same thing and might present facts with respect to the resignation of the two officers whose integrity was attacked, even though such resignation occurred subsequent to filing of the application.-In re Fiftieth St. Fairway, Inc. (Moss), 101 (128) N.Y.L.J. (6-3-39) 2561, Col. 2 M, at 2 F.

¶ 5. That one of the officers of the corporation petitioning for common show licenses and a license to operate "alley roll" games had been charged with juvenile delinquency in 1913 and with disorderly conduct in 1916, and that another had pleaded guilty to petty larceny in 1920, **held** not to warrant denial of the licenses, particularly in view of fact that the corporation had caused the withdrawal of both of such officers from any connection with the corporation.-Id.

¶ 6. Action of Commissioner of Licenses in revoking license theretofore granted to petitioners for operation of "alley roll" games on vacant lot leased by them in theatrical district and in denying other applications for common show purposes, **held** invalid, and Commissioner was directed to rescind the revocation and to issue the licenses, since the enterprises for which the licenses were sought conformed with zoning and other regulations, and objections based upon proposition that an undesirable element might be attracted by the game merely dealt with conjectures that might be considered when they arose (279 N.Y. 288). Since no present rule of any department of government was violated by establishment of such an amusement center, Commissioner might not anticipate the possibility of such violations.-Id.

¶ 7. Where the License Commissioner, following a three months' temporary license, had refused to issue to petitioner a license for an "alley ball" game maintained in petitioner's restaurant and cafe, on ground that the game was one of chance and petitioner had misrepresented that the machine was an improved type of "alley ball" game, petitioner **held** entitled to an alternative order of mandamus, as petitioner's game was so similar to the regular alley ball game as to require a full development of the facts at a trial.-In re Geraghty (Moss), 115 (20) N.Y.L.J. (1-24-46) 317, Col. 5 M.

¶ 8. Manufacturer of Bank Ball Game, which is a type of alley roll game, **held** entitled to stay official action in the form of confiscation or destruction of its machines pending trial of action brought by it for a judgment declaring the game one of amusement and skill and not a gambling device, where it appeared that plaintiff's game had theretofore been licensed by the Commissioner of Licenses, the contention that the machine was a gambling device was based on the claim that it might be readily converted into a gambling device, and the authorities would make no arrests and the legality of the machine therefore could not be tested in a criminal proceeding.-Amusement Enterprises, Inc. v. Fielding, 63 N.Y.S. 2d 661 [1946].

¶ 9. Plaintiff's "Bank Ball" game, which was an alley roll game involving the rolling of nine balls in succession along a fifteen foot alley into various receptacles, with the course and distance of the ball in its flight being solely in the hands of the play and a properly directed ball always finding its target, **held** to be a game of amusement and skill and not a gambling machine. Furthermore, it was not "readily convertible" into a gambling machine within meaning of P.L. § 982, as evidenced by testimony of engineer that it would take twelve minutes to change the machine so that a player would receive one free game if he obtained a certain score, that another ten minutes would be required to complete the job by soldering, insulating and properly securing wires, and an additional five minutes for installation of a free play plug to make the game interchangeably a free play game and a normal game.-Amusement Enterprises, Inc. v. Fielding, 189 Misc. 625, 64 N.Y.S. 2d 857 [1946], modified, 272 App. Div. 917, 71 N.Y.S. 2d 66 [1947].

¶ 10. Manufacturer of "bank ball" game might not sue for a declaratory judgment that game was a "game of amusement and skill", that it was not readily convertible within meaning of P.L. § 982, and that no license was required under the Administrative Code for operation of the game.-Amusement Enterprises v. Fielding, 272 App. Div. 917, 71 N.Y.S. 2d 66 [1947], reversing on this point, 64 N.Y.S. 2d 857 [1946].

¶ 11. Refusal of Commissioner of Licenses to issue a license to operate a common show X-ray poker game was not arbitrary where there were two large high schools in the neighborhood.-In re Littwin (Moss), 107 (17) N.Y.L.J. (1-21-42) 308, Col. 5 M.

¶ 12. Motion for mandamus order directing Commissioner of Licenses to issue license to petitioner to operate a game known as "play ball" was denied, on ground that the facts shown by affidavits established that the Commissioner was correct in his ruling that the game was one of chance, illegal under the Penal Law. Moreover a certain person shown to be upon the premises under authority of petitioner had been convicted three times in 1941 of illegally operating a "pinball" machine on the premises.-Sherry v. Moss, 107 (133) N.Y.L.J. (6-9-42) 2445, Col. 5 F.

¶ 13. Refusal of Commissioner of Licenses to grant license for the proposed common shows **held** not to have been arbitrary where the proposed location of the shows was near a church and the Department of Licenses had made a comprehensive investigation and the Commissioner had personally visited the premises and the neighborhood.-Fargo Enterprises, Inc. v. Fielding, 74 N.Y.S. 2d 326 [1953].

¶ 14. Commissioner of Licenses **held** to have acted lawfully in refusing to grant a show license in a business zone where numerous individuals and civic organizations objected to the issuance thereof on the grounds that such shows would interfere with the City's youth program.-In re Joyland Center, Inc. (McCaffrey), 145 N.Y.S. 2d 891 [1955].

¶ 15. Plaintiff, distributor of electrically operated mechanical ponyrides, was found guilty of violating § B32-41.0 of the Administrative Code in operating a common show without a license. Declaratory judgment declaring code inapplicable is not available since appeal was pending from judgment of conviction.-Lane-Marvey Corp. v. McCaffrey, 204 Misc. 166, 119 N.Y.S. 2d 830 [1953], aff'd, 282 App. Div. 1013, 126 N.Y.S. 2d 197 [1953].

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NYC Administrative Code 20-25

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 5 SHOOTING GALLERIES [Repealed]

Former Subchapter 5 Shooting Galleries § 20-222 repealed L.L. 59/1992 § 1, eff. July 23, 1992. Subch. 5 was added chap 907/1985 § 1. (This section was derived from § B32-47.0 added chap 929/1937, amended L.L. 172/1939 § 14, L.L. 21/1947 § 1, L.L. 20/1973 § 2, L.L. 74/1977 § 5).

CASE NOTES FROM FORMER SECTION 20-222

¶ 1. Commissioner of Licenses **held** to have been justified in refusing to renew license to operate a shooting gallery, on grounds the applicant did not carry workmen's compensation or liability insurance as required by regulations of Commissioner of Licenses, the shooting gallery was only 10 feet in length instead of the required 30 feet, and also lacked the required oblique metal protective flanges on the side walls, offering of prizes from fifty cents to $25 for a shooting fee of ten cents was so disproportionate as to induce gambling, and patrons had complained the previous year of improper manipulation of the equipment whereby they were deprived of prizes duly won.-Apel v. Moss, 256 App. Div. 607, 11 N.Y.S. 2d 122 [1939].

¶ 2. That the reasons given for revocation in 1938 of petitioner's license to conduct a shooting gallery and the refusal in 1939 to renew his license were possibly the same, and that no appeal had been taken from the order directing restoration in 1938, did not require an affirmance of an order directing issuance of a renewal in 1939.-Id.

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Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 9 PUBLIC CARTS AND CARTERS [Repealed]

Former Subchapter 9 comprised of §§ 20-248-20-252 repealed L.L. 61/1992 § 1, eff. July 23, 1992. Formerly §§ B32-92.0-B32-96.0 added 929/1937 § 1, § B32-94.0 am'd L.L. 44/1970 § 3, § B32-95.0 am'd L.L. 46/1966 § 1, L.L. 74/1977 § 3.

CASE NOTES FROM FORMER SECTION 20-248

¶ 1. Trucking company which operated a fleet of interstate motor trucks and maintained in New York City a freight terminal at which it loaded and unloaded merchandise and by means of small delivery trucks distributed the merchandise at points within the City to various consignees, and also picked up goods from such consignees for transportation to the terminal, **held,** as respects its small delivery trucks, not to come within scope of ordinance imposing a license fee for operation of public carts within the City, and defining as a public cart every vehicle kept for hire or used to carry merchandise within the City for pay. Such ordinance applies only to a common carrier engaged in the business of carrying merchandise generally for all who desire his services, whereas, although the trucking company was a common rather than a private contract carrier, it did not undertake to carry goods within the City for anyone who so desired, but only for those who contracted with it to ship goods in interstate commerce, and the ordinance did not attempt to cover a contract between shipper and carrier where State lines were to be crossed (Admin. Code §§ B32-92.0 to B32-95.0).-People v. Horton Motor Lines, Inc., 281 N.Y. 196, 22 N.E. 2d 338 [1939], rev'g, 170 Misc. 507, 10 N.Y.S. 2d 580 [1938].

¶ 2. Ordinance imposing a license fee for operation of public carts within the City would be an unconstitutional interference with interstate commerce if it were intended to apply to small delivery trucks which trucking company, operating a fleet of interstate motor trucks, maintained to distribute merchandise within the City from its freight terminal in the City and to pick up merchandise from consignees for transportation to the terminal, since the delivery trucks were available only to those shipping in interstate commerce pursuant to a single contract for interstate commerce. The ordinance attempted to license the occupation of public cartmen, and the State might not require a license as a condition precedent to the pursuing of activities in interstate commerce. However, even if the ordinance were designed solely as a revenue measure it is doubtful whether it could apply to the delivery trucks.-Id.

¶ 3. Administrative Code, ch. 32, Art. 15, is a legislative grant of power by the State to the City to regulate public cartmen as to rate of transportation, number of men to be engaged, and disputes as to compensation, and to license public carts therefor. It is not a grant of power to insure public safety and convenience or to compel contribution to cost of constructing and maintaining highways. It purports to regulate intrastate business and by its very nature is inapplicable to interstate commerce.-People (Conklin) v. Madden, 169 Misc. 745, 9 N.Y.S. 2d 64 [1939].

¶ 4. Defendant who employed his truck exclusively either in collecting merchandise from consignors in City of New York and delivering it to railroad terminal from which it was shipped out of state, or in receiving merchandise at the terminal and delivering it to consignees within the City, and who carried no intracity or intrastate shipments and performed no cartage service for the general public and had no relations as principal with the consignor or consignee but was paid directly by a forwarding company with which he was under contract, **held** to be engaged exclusively in interstate commerce, and hence was not subject to Administrative Code § B32-93.0, requiring a license for operation of public carts. That the truck was owned by an independent company and not by the forwarding company, was immaterial.-Id.

¶ 5. Defendant who ran a livery stable business and owned several wagons and horses which were not licensed and which he hired only on a daily, weekly or monthly basis, **held** to be a "public cartman" within meaning of Administrative Code § B32-92.0, and guilty of a violation thereof when on the occasion in question he had hired out a wagon for use by another person for purposes of moving furniture.-People v. Englander, 170 Misc. 518, 10 N.Y.S. 2d 464 [1939].

¶ 6. Defendant which was engaged in business of leasing motor trucks to business houses in New York City to be used for purpose of delivering and collecting the lessee's merchandise only, the particular truck in question having been used by the merchant to which it was leased for purpose of making free delivery of merchandise to its customers, **held** not to be a "public cartman" within meaning of Administrative Code § B32-92.0, and hence defendant was not required to have a public cartman's license, since the truck was not available for use by the general public but was available only for purpose of making the lessee's deliveries. Fact that the chauffeurs for the trucks were supplied under contract between lessee and a wholly-owned subsidiary of defendant was immaterial.-People v. S & E. Motor Hire Corp., 29 N.Y.S. 2d 105 [1941], rev'g, 175 Misc. 347, 22 N.Y.S. 2d 845 [1940].

¶ 7. Although § B32-92.0 may be violated either by keeping the vehicle for hire or by using it to carry goods for pay, the use of such vehicle must be general, and not exclusive.-Id.

¶ 8. That defendant did not possess a public cartman's license as required by Administrative Code §§ B32-92.0 to 95.0 would not render void a limitation of liability clause in his contract of carriage. Since it was plaintiff who sought to enforce the responsibility of a common carrier upon defendant, defendant should have the benefit of the entire contract even though unlicensed at the time it was made.-Grayson-Robinson Stores, Inc. v. Courtney, 125 (121) N.Y.L.J. (6-22-51) 2324, Col. 2 T.

CASE NOTES FROM FORMER SECTION 20-249

¶ 1. The denial of a public cart license to petitioner corporation merely because one of the two stockholders had

been convicted many years ago for disorderly conduct was arbitrary.-Wearing Apparel Trucking Co. v. O'Connell, 139 (100) N.Y.L.J. (5-22-58) 6, Col. 6 F.

¶ 2. The petitioner sought a license to engage in trucking in the garment industry. The license was denied because the treasurer of the petitioner was found to be personally unfit, having been convicted of extortion in connection with garment trucking racketeering, and having served a sentence of from 5 to 10 years. **Held:** The Commissioner did not abuse his discretion. The conviction was not for criminal activities remote from the licensed business but was linked to the very industry in which the petitioner sought a license-an industry which, as both courts below emphasized, has been infiltrated by criminal elements.-Matter of Barton Trucking Corporation, 7 N.Y. 2d 299, 197 N.Y.S. 2d 138, 165 N.E. 2d 163 [1959].

¶ 3. Article 15 of Chapter 32 is invalid since State has undertaken the regulation of carriers of household goods within the city and there is no real distinction between conditions in the city and elsewhere in the State which would allow the city to adopt its own regulations in this area.-Kindermann Fireproof Storage Warehouse Inc. v. City of N.Y., 39 A.D. 2d 266, 333 N.Y.S. 2d 854 [1972], aff'd, 36 N.Y. 2d 831, 334 N.E. 2d 685, 370 N.Y.S. 2d 906 [1975].

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Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 10 JUNK DEALERS [Repealed]

Former Subchapter 10 comprised of §§ 20-253-20-263 repealed L.L. 63/1992 § 1, eff. July 23, 1992. Formerly §§ B32-113.0-B32-124.0 added chap 907/1985 § 1, § B32-114.0 am'd L.L. 44/1970 § 4, ll 74/1977 § 3, LL 30/1983 § 5, § B32-117.0 am'd L.L. 45/1966 § 1, § B32-118.0 am'd L.L. 9/1939 § 1, § B32-120.0 am'd L.L. 42/1959 § 1, LL 69/1983 § 1, § B32-123.0 am'd L.L. 60/1981 § 1.

CASE NOTES FROM FORMER SECTION 20-253

¶ 1. Defendants who were engaged in the business of grading and sorting new and used wool material which they sold in bulk lots to wool mills, **held** to be engaged in the business of purchasing or selling rags within the statutory definition of a junk dealer (Admin. Code § B32-113.0), and were required to have a junk dealer's license, inasmuch as the preponderance of their purchased wool material was purchased from wholesale junk dealers, the materials in which they dealt were of a character which provided a ready market for stolen property so that regulation thereof was necessary and reasonable, and the commodities in which they dealt were included within the term "rags".-People v. American Wool Stock Corp., 286 N.Y. 77, 35 N.E. 2d 905 [1941], rev'g, 174 Misc. 758, 21 N.Y.S. 2d 781 [1940].

¶ 2. Defendant was held to be a junk dealer within the purview of § B32-113.0 of the Administrative Code even though he dealt in waste clippings from new woolen material.-People v. Sobel, 198 Misc. 891, 104 S. 2d 162 [1950].

CASE NOTES FROM FORMER SECTION 20-254

¶ 1. Refusal of New York City Commissioner of Licenses to grant license to petitioner for operation of certain premises as a junk shop on ground the previous licensee and owner of the premises was convicted of a conspiracy to purchase junk from minors and that the operation of a junk shop on the premises would tend to induce visits by minors who had previously patronized the place, **held** not to have been arbitrary or unreasonable, notwithstanding petitioner was of good character.-In re Saladino (Moss), 28 N.Y.S. 2d 75 [1941].

¶ 2. That petitioner's husband's license to act as a junk dealer had been revoked because of his failure to disclose the existence of a partnership with a person who was not licensed as a junk dealer, **held** not to warrant denial of a junk dealer license to petitioner, even though she might wish to employ or be assisted by her husband, who had no criminal record.-In re Novi (Moss), 184 Misc, 773, 54 N.Y.S. 2d 852 [1945].

¶ 3. Without a hearing Commissioner denied appellant's application for a license as a junk dealer upon the grounds that (1) a prior application by her husband had been refused because of protests by neighbors and (2) the neighborhood had not changed sufficiently to warrant further consideration. The premises were in an unrestricted district. The Commissioner's objections were not based upon any statutory provisions, and he is without power to prescribe new qualifications for an applicant. The matter was remitted to him for a hearing and reconsideration based upon proof to be adduced thereat. At that time he could consider whether appellant had actually been operating a junk business before procuring a license herefore.-Matter of Savage v. Commissioner of Licenses, 3 A.D. 2d 717, 159 N.Y.S. 2d 456 [1957].

¶ 4. Petitioner was held entitled to an order directing that a junk shop license be issued to him, where it appeared that actually petitioner had no criminal record whatever and that the criminal record upon which the refusal to grant a license was based was apparently that of another person with a similar name.-In re De Gregorio (Moss), 113 (127) N.Y.L.J. (6-1-45) 2099, Col. 1 T.

¶ 5. Where charges against petitioner for larceny and rape had been dismissed and he had had a clean record for 16 years since the date of the last arrest, a denial of his application for a license for junk cart was arbitrary.-Matter of Pinto (O'Connell), 142 (85) N.Y.L.J. (10-29-59) 13, Col. 8 M.

¶ 6. The Commissioner of Licenses rejected the application of a junk dealer at a particular location because of the harm the business might work on the residential area involved. **Held:** In the light of the history and purpose of the regulation of junk dealers, it is obvious that a license is required in order to eliminate, or at least curtail, the readily available market for stolen property which this business affords. The clear implication, therefor, is that delegated discretion was intended, in this instance, to be limited to this specific subject, i.e., to the prevention of the distribution of stolen goods. Therefore, the refusal of the Commissioner to grant the license because of the mere objections of the residents (as to possible adverse affect upon the area) was arbitrary and in excess of authority conferred.-Matter of Mologno, 7 N.Y. 2d 155, 196 N.Y.S. 2d 90, 164 N.E. 2d 389 [1959].

¶ 7. Defendant who was engaged in the business of buying and collecting from knitting mills leftover pieces of salvaging, sorting and bailing the wool, known as wool clips, and in materials which it would then sell to knitting mills to reprocess into yarn and resell to manufacturers, **held** not to be a junk dealer within meaning of Admin. Code § B32-114.0 making it unlawful to act as a junk dealer without a license therefor. Defendant dealt only with new materials and purchased them direct from the manufacturer. Such new wool clips were not "rags" within meaning of the statute.-People (Meltzer) v. Nierman, 190 Misc. 149, 71 N.Y.S. 2d 598 [1947].

¶ 8. Defendant who was engaged in the business of purchasing woolen clippings from clothing manufacturers, which he then sorted, bailed and sold to other dealers in woolen clippings, which such dealers in turn sold to mills, with the clippings eventually finding their way back into bolts of cloth as reprocessed wool, **held** to be a junk dealer within meaning of Admin. Code § B32-114.0, requiring him to procure a license. Clippings from the manufacturer of new garments are waste or discarded material and therefore "rags" within purview of § B32-113.0.-People (Meltzer) v.

Sobel, 198 Misc. 891, 104 N.Y.S. 2d 162 [1950].

¶ 9. The business of junk dealer, which business provides a likely market for stolen property, is of a character which warrants regulation in the exercise of police power, and the licensing statute embodied in Administrative Code §§ B32-113.0 to B32-125.0 was a valid exercise of such police power.-People v. American Wool Stock Corp., 286 N.Y. 77, 35 N.E. 2d 905 [1941], rev'g, 174 Misc. 758, 21 N.Y.S. 2d 781 [1940]

¶ 10. The basic reason for regulation of junk dealers is the desire of the law making body to minimize the opportunity for theft on the part of persons who have access to the household belongings of others and the opportunity to dispose of such belongings in such a manner as to destroy their original form.-People (Meltzer) v. Nierman, 190 Misc. 149, 71 N.Y.S. 2d 598 [1947].

¶ 11. Suspension of petitioner's license was not arbitrary where evidence showed (1) petitioner carried on junk business in his home and used license address as storeroom and (2) operated junk cart without license.-Zucherman v. Moss, 184 Misc. 232, 56 N.Y.S. 2d 90 [1945].

CASE NOTES FROM FORMER SECTION 20-259

¶ 1. Commissioner's suspension of petitioner's license to operate a junk shop, **held** not to have been arbitrary, where the license authorized him to maintain a junk shop at 327 East 102nd Street, where he used such premises only as a storeroom and operated his business from his home at 1711 Davidson Avenue, Bronx, thus violating Administrative Code § B32-120.0 making it unlawful for a junk dealer to carry on his business at any other place than that designated in his license. Also, there was evidence that petitioner had operated a junk cart without the license required by § B32-114.0.-In re Zuckerman (Moss), 184 Misc. 232, 56 N.Y.S. 2d 90 [1945].

CASE NOTES FROM FORMER SECTION 20-262

¶ 1. Commissioner's suspension of petitioner's license to operate as a junk dealer, **held** not to have been arbitrary where petitioner failed to keep any books or records, in violation of Administrative Code § B32-123.0.-Wolf v. Moss, 113 (50) N.Y.L.J. (3-2-45) 808, Col. 6 F.

¶ 2. Where petitioner had purchased junk scrap metal without making or keeping the required record thereof and had violated the Administrative Code on a prior occasion, determination of Commissioner of Licenses suspending petitioner's license to sell junk for thirty days and fining it $25 for each violation of this section was not arbitrary.-A Zinzi & Sons Inc. v. Tyler, 158 (7) N.Y.L.J. (7-12-67) 10, Col. 6 F.

¶ 3. Where police officers came to junkyard to inspect book recording purchases and sales and when it was not produced began to roam area not more than 12 feet from office shed and noticed that vehicle identification numbers on automobile parts had been obliterated after which defendants were arrested and parts seized the search was upheld since premises were open for business and accessible to public and objects were in open view.-People v. Ruggieri, 85 Misc. 2d 141, 379 N.Y.S. 2d 333 [1976].

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Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 18 COMMERCIAL, CONSTRUCTION AND DEMOLITION REFUSE REMOVAL [Repealed]

Former Subchapter 18 §§ 20-332-20-338 repealed L.L. 42/1996 § 13, eff. June 3, 1996, see footnote to Title 16-A for special provisions, Title amended L.L. 26/1987 § 1. Subchapter added chap. 907/1985 § 1. Section 20-332 subds a, b amended L.L. 26/1987 § 2; § 20-333 repealed & added L.L. 26/1987 § 3; § 20-334 amended L.L. 66/1989 § 9, repealed & added L.L. 26/1987 § 4; § 20-334.1 added L.L. 26/1987 § 5, subd. 1 amended L.L. 66/1989 § 10, subd. 2 amended L.L. 75/1989 § 5; § 20-334.2 added L.L. 75/1989 § 6; § 20-335 subd. c amended L.L. 26/1987 § 6; § 20-337.1 amended L.L. 19/1989 § 3, added L.L. 39/1986 § 3; § 20-338 added L.L. 26/1987 § 7.

DERIVATION

Formerly § Formerly §§ B32-267.0-B32-271.0 added L.L. 29/1956 § 1; § B32-267.0 amended L.L. 53/1956 § 1, subds e, f amended L.L. 44/1970 § 1, L.L. 30/1983 § 9; § B32-267.1 added L.L. 14/1978 § 2; § B32-270.0 amended L.L. 74/1977 § 8.

CASE NOTES FROM FORMER SECTION 20-332

¶ 1. The City License Commissioner could not revoke the petitioners' license to carry on garbage removal without a proper notice and without giving licensees information as to the purpose of a hearing. Petitioner's license was a property right and hence, where the revocation comes about as a result of a determination by an administrative officer or

body, the act is of a judicial nature and to be valid must be in accord with due process of law.-Rosetti v. O'Connell, 10 Misc. 2d 453, 172 N.Y.S. 2d 716 [1958].

CASE NOTES FROM FORMER SECTION 20-335

¶ 1. Temporary rate adjustments made on an emergency basis should be recalculated under the formal procedures of § 20-335(b). Minor rate adjustment in question regarded an "additional toll expense" which became a substantial amount over time. (Presidents Council of Trade Waste Assoc. v. Koch, 143 Misc.2d 607, 1989)

CASE NOTES FROM FORMER SECTION 20-337

¶ 1. A regulation requiring commercial rubbish collectors to make written contracts with their customers and file the same with the Department of Licenses is a reasonable one, calculated to insure the proper observance of maximum price regulations.-P. & A. Carting Co. v. City of New York, 7 Misc. 2d 815, 158 N.Y.S. 2d 296 [1956].

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NYC Administrative Code 20-229

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 2 LICENSES

APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 29 MIDTOWN STORES [Repealed]

Former Subchapter 29 §§ 20-484-20-487 added chap. 907/1985 repealed L.L. 38/1992 § 2, eff. Jan. 1, 1993. Formerly §§ B32-1.0-B32-5.0 added L.L. 74/1982 § 3.

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NYC Administrative Code 20-571

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Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-571 Fees.

All fees for permits issued by the department shall be paid to the department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-572

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-572 Transfers of permits or licenses.

Written approval of the commissioner shall be required for the transfer or assignment of any permit or license under his or her jurisdiction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-2.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The Commissioner of Public Markets of the City of New York does not have the power to refuse a license on the ground that the applicant's business name is similar to others.-Matter of Rodisch v. Morgan, 168 Misc. 258, 5 N.Y.S. 2d 810 [1938].

Administrative Code of the City of New York

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NYC Administrative Code 20-573

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-573 Adjustment of controversies.

The commissioner of ports and trade may adjust and settle any claims and controversies in regard to rents and other matters which appertain to leases of market lands.

HISTORICAL NOTE

Section amended L.L. 14/1989 § 13.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-3.0 added chap 929/1937 § 1

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NYC Administrative Code 20-574

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-574 Rules and regulations.

a. The commissioner shall have power to adopt and amend such rules and regulations as may be necessary to carry out his or her powers and duties pursuant to this chapter.

b. Punishment. Any person who shall violate any such rules and regulations shall be liable to forfeit and pay a civil penalty in the sum of not more than one hundred dollars for each violation.

c. Violations. Any person who shall violate any of such rules and regulations shall be guilty of an offense triable by a judge of the New York city criminal court, and punishable by a fine of not less than twenty-five dollars and not more than two hundred fifty dollars for each offense or by imprisonment not exceeding ten days, or by both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-3.1 added LL 70/1961 § 1

Sub c amended chap 100/1963 § 592

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Administrative Code of the City of New York

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NYC Administrative Code 20-575

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-575 Waterfront property adjoining market lands; highways through or bounding market places.

Nothing contained in this chapter shall interfere with the jurisdiction of the department of ports and trade over any waterfront property in and around any market lands, nor with the jurisdiction of the commissioner of transportation over market lands, insofar as it concerns his or her powers over highways.

HISTORICAL NOTE

Section amended L.L. 14/1989 § 14.

Section amended LL 5/1986 § 22

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-4.0 added chap 929/1937 § 1

Amended chap 100/1963 § 593

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Administrative Code of the City of New York

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NYC Administrative Code 20-576

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-576 City sealer.

The commissioner, or such officer or employee in the department as he or she may designate, shall have all of the powers and perform all of the duties of a sealer of weights and measures pursuant to section one hundred eighty of the agriculture and markets law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-5.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 20-577

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-577 Inspectors of markets, weights and measures.

a. The commissioner shall have power and it shall be his or her duty to appoint a chief inspector of markets, weights and measures and inspectors of markets, weights and measures. The title of inspectors of live poultry and weighmasters shall be abolished and all persons occupying those titles shall henceforth have the title of inspector of markets, weights and measures, with all the powers and duties of that title. Wherever any reference to the title or duties of inspector of live poultry or weighmaster appears in this code, the title or duties of inspector of markets, weights and measures shall be substituted therefor.

b. Each inspector is hereby authorized and empowered, subject to the regulations of the department, to enforce any law, rule or regulation pertaining to the weights and dimensions of vehicles and to proceed under the provisions of article one hundred fifty of the criminal procedure law, in the same manner and with like force and effect as a police officer in respect to procuring, countersigning and serving the appearance tickets referred to therein in cases arising out of the enforcement of any such law, rule or regulation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-6.0 added chap 929/1937 § 1

Amended LL 40/1957 § 1

Amended chap 478/1967 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-578

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-578 Bureau of weights and measures.

There shall be a bureau of weights and measures in the department under the supervision of the chief inspector of weights and measures.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-7.0 added chap 929/1937 § 1

Amended chap 100/1963 § 594

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-579

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-579 Employees not to engage in business.

It shall be unlawful for the commissioner or any officer or employee of such bureau, to engage in the business of manufacturing, vending or selling any weighing or measuring device, under the penalty of fifty dollars for each offense.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-8.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-580

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-580 Return of department property.

Whenever any inspector shall resign or be removed from office, he or she shall deliver at the office of the commissioner all the standard weights and measures and other official property in his or her possession.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-9.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-581

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-581 Inspecting.

a. Each inspector of markets, weights and measures is hereby authorized to inspect, examine, test and seal at least once in each year, and as often as the commissioner may deem proper, all weighing and measuring devices. Upon the written request of any resident of the city, the commissioner shall test or cause to be tested, within a reasonable time after the receipt of such request, the weighing or measuring devices used in buying or selling by the person making such request. All such appliances shall be marked by the inspector with the initials of his or her name and the date on which the same shall be sealed and marked.

b. Such books shall be open for inspection at all reasonable times to any police officer, inspector or person duly authorized by the commissioner, or by any judge of the criminal court of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-10.0 added chap 929/1937 § 1

Amended chap 100/1963 § 595

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-582

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-582 Reports of inspectors.

Each inspector shall report promptly to the commissioner the names of all persons whose weighing and measuring devices shall be found to be incorrect. Each inspector shall file a daily report with the commissioner, and make such other and further reports and keep such further records as may be required, from time to time, by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-11.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-583

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-583 Certificate of inspection.

Each inspector shall furnish a certificate to the owner of the weights or measures inspected, and shall keep a record of each certificate given on a corresponding stub. The certificates and corresponding stubs shall be numbered consecutively. The books containing the stubs, after the corresponding certificates have been given out, shall be a public record. The commissioner, when required, shall certify extracts from such records.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-12.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-584

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-584 Testing, sealing and marking.

It shall be unlawful to use any weighing or measuring device unless the same shall have been tested, sealed and marked by the commissioner or an inspector of such bureau.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-13.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-585

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-585 Standard measures and containers.

It shall be unlawful to manufacture, construct, sell, offer for sale, or give away, any dry or liquid measure, or any barrel, pail, basket, vessel, or container, intended to be used in the purchase or sale of any commodity or article of merchandise, unless it shall be so constructed as to conform to the standards provided by article sixteen of the agriculture and markets law. It shall be unlawful for any person to use any barrel, cask, pail, basket, vessel or container, in the purchase or sale of any commodity or article of merchandise, unless it shall conform to such standards.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-14.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-586

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-586 Sale of weights and measures.

It shall be unlawful to sell, offer for sale, or give away any weighing or measuring devices or the tools, appliances or accessories connected therewith, intended to be used for the purchase or sale of any commodity or article of merchandise, or for public weighing, unless the type or types of such weighing or measuring devices, or the tools, appliances or accessories connected therewith, with specifications as to construction, shall have been submitted to and approved by the commissioner. The commissioner, when such types are approved, shall designate and identify them by a serial number. A record of the serial numbers and the persons to whom such numbers are assigned shall be kept in the office of the commissioner. The commissioner shall keep a register of the name of each person whose weighing or measuring devices have been inspected, together with their serial numbers and size, and whether approved or condemned, with the date of inspection. Such record shall be a public record.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-15.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-587

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-587 Sale by true weight or measure required.

It shall be unlawful to sell or offer for sale any commodity or article of merchandise, at or for a greater weight or measure than the true weight or measure thereof; for the purposes of this section the true weight of frozen poultry, shall be the net weight thereof exclusive of any food product or substance added or combined therewith; and all such commodities and articles of merchandise shall be weighed or measured by duly tested devices, sealed and marked by the commissioner or an inspector of the bureau; provided, that vegetables may be sold by the head or bunch.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-16.0 added chap 929/1937 § 1

Amended LL 35/1962 § 1

Amended LL 74/1963 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Complaint, in action by individual grocers and dealers in eggs and dairy products, and by a corporate organization of grocers, to restrain New York City officials from enforcing price regulations of the OPA, **held**

insufficient, inasmuch as no ultimate facts were pleaded constituting the legal grievance of plaintiffs, no names, times or other details were given nor damage shown, there was no allegation that any of the plaintiffs were accused of a violation of Administrative Code § 833-16.0, and even if violation charges were made against them there was no allegation why relief could not be obtained in the actions brought. There were merely conclusory allegations that defendants' actions tended to injure plaintiffs' good reputation and cause irreparable injury to their "property rights," that the corporate plaintiff had attempted in vain to have defendants desist, and that plaintiffs had no adequate remedy at law. Furthermore, it did not appear that the corporate plaintiff had sustained any damage, or that it was entitled to sue on behalf of anyone other than itself.-Boro Wide Food Dealers Ass'n. v. LaGuardia, 44 N.Y.S. 2d 160 [1943].

¶ 2. Where contract providing for sale of United States choice steers provided that weight of goods when packed governed all sales and no allowance would be made for natural shrinkage, and when shipment arrived from Omaha there was difference of 185 pounds in weight due to natural shrinkage, there was no violation of § 193 of Agriculture and Markets Law or § 833-16.0 of Administrative Code of City of New York.-Emerald Packing Corporation v. Hygrade Food Products Corporation, 23 Misc. 2d 915, 200 N.Y.S. 2d 534 [1960].

¶ 3. Civil Court had no jurisdiction of an action to recover a $100 penalty from the defendant who allegedly sold a bag of candy which was two ounces less than the marked weight. Such a penalty may be recovered only in a trial before a magistrate.-City of New York v. Alkanna, 148 (109) N.Y.L.J. (12-7-62) 17, Col. 1 T.

¶ 4. The power given to the Commissioner of Department of Markets to enforce laws in relation to weights and measures authorized him to adopt a regulation requiring the grinding of meats in a place open to the public.-Matter of Jackel, 35 Misc. 2d 358, 229 N.Y.S. 2d 57 [1962].

¶ 5. Where containers of milk bearing the date and name of the packer were selected at random from other similarly marked containers maintained by a milk wholesaler and distributor and were determined to be improperly labeled a prima facie case was made out to prove that these containers were being offered for sale within the meaning of this section and the defendant must then prove that these containers were not offered for sale.-City of N.Y. v. Dairylea Corp., 73 Misc. 2d 864, 342 N.Y.S. 2d 760 [1973].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-588

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-588 Confiscation of false weights or measures.

Any weight which upon being tested is found to be short a quarter of an ounce or more; or any scale of a capacity greater than four hundred pounds, which upon being tested, is found to be short in weight by a quarter of a pound or more; or any scale of a capacity of between two hundred forty and four hundred pounds, which upon being tested is found to be short two ounces or more; or any scale of a capacity greater than four hundred pounds, which upon being tested, is found to be short five ounces or more; or any scale which is in an unfit condition to be used by being worn out, badly rusted, or by any other cause; or any measure or utensil being used in the sale or purchase of any commodity or article of merchandise, which does not conform to the standards provided by article sixteen of the agriculture and markets law, may be summarily confiscated and destroyed by the commissioner or an inspector of the bureau.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-17.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-589

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-589 Alteration of tested appliances.

It shall be unlawful to render inaccurate, any device, to be used in weighing or measuring any commodity or article of merchandise, after such device has been tested, sealed and marked by the commissioner or an inspector of the bureau.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-18.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-590

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-590 Repair of inaccurate appliances.

Within five days after the condemnation of a weighing or measuring device, the owner thereof, at his or her own expense, shall cause the same to be conformed to the standards established by article sixteen of the agriculture and markets law, and within twenty-four hours thereof, shall cause notice, in writing, of such alteration to be mailed or served personally upon such bureau. The seal upon any such device shall remain affixed and unbroken unless removed pursuant to section one hundred eighty-three of the agriculture and markets law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-19.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-591

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-591 Interference with inspectors.

It shall be unlawful for any person to obstruct, hinder or molest the commissioner or any inspector of the bureau in the performance of his or her duties.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-20.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-592

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-592 Violations; report of.

The commissioner shall report forthwith to the corporation counsel the names and places of business of all persons violating the provisions of this chapter, and of all persons making use of any fraudulent or unsealed weighing or measuring devices.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-21.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-593

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-593 Punishment.

Any person who shall violate any of the foregoing provisions for the regulation of weights and measures shall forfeit and pay a penalty of one hundred dollars for each and every such offense.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-22.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-594

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 3 WEIGHTS AND MEASURES

§ 20-594 Violations.

Any person violating any of the provisions of sections 20-583 through 20-593 of this chapter, shall be guilty of an offense triable by a judge of the New York city criminal court, and upon conviction thereof, shall be fined the sum of not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or by imprisonment not exceeding ten days, or by both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 833-23.0 added chap 929/1937 § 1

Amended LL 41/1960 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Civil Court had no jurisdiction of an action to recover a $100 penalty from the defendant who allegedly sold a bag of candy which was two ounces less than the marked weight. Such a penalty may be recovered only in a trial before a magistrate.-City of New York v. Alkanna, 148 (109) N.Y.L.J. (12-7-62) 17, Col. 1 T.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-601

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-601 License required.

It shall be unlawful for any person to engage in or conduct the business of dealing in, trading in, selling, receiving or repairing condemned, rebuilt or used weighing or measuring devices without a permit therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-1.0 added chap 929/1937 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-602

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-602 Application for permit.

a. Any person before engaging in such business shall file a written application with the commissioner for such permit, stating in such application the location of the place in which such business is to be conducted.

b. Such application shall be in the form prescribed by such commissioner.

c. Such permit shall be granted only to a person of the age of eighteen years or over.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-2.0 added chap 929/1937 § 1

Sub b amended LL 39/1957 § 6

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-603

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-603 Permit; fee.

a. After the filing of such an application, and investigation thereof duly made, the commissioner, if he or she approves of such application, may issue a permit conditioned upon compliance with the provisions of this subchapter and with the rules and regulations of any city agency applicable to such permittee.

b. The fee for such permit for a year, or any portion thereof, shall be sixty dollars, and shall be payable upon the filing of such application.

c. Such permit shall expire on the twenty-eighth day of February next succeeding the date of issuance thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-3.0 added chap 929/1937 § 1

Sub b amended LL 30/1983 § 16

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-604

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-604 Notice as to repaired devices.

Every person engaged in the business of dealing in, trading in, selling, receiving or repairing condemned, rebuilt or used weighing or measuring devices, within five days after the making of a repair, or the sale and delivery of a repaired, rebuilt, or used weighing or measuring device, shall serve notice in writing on the commissioner giving the name and address of the person for whom such repair has been made, or to whom a repaired, rebuilt or used weighing or measuring device has been sold or delivered, and shall include a statement that such device has been so altered, rebuilt or repaired as to conform to the standard specifications and regulations of such department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-4.0 added chap 929/1937 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-605

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-605 Condemned devices; return of tags.

Any person who accepts weighing or measuring devices in trade for others shall remove the condemned tags from those devices which have been condemned by the department and which are intended for dismantling or destruction. Such tags shall be returned to the department within five days thereafter, with a statement describing the weighing or measuring device, giving the name and address of the person from whom it was received, and a statement to the effect that it has been dismantled or destroyed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-5.0 added chap 929/1937 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-606

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-606 Records.

a. Every person duly registered pursuant to the provisions of this subchapter shall maintain a book or register in which the following information shall be kept:

1. The name and address of every person for whom weighing or measuring devices are repaired;

2. The name and address of every person to whom a repaired, rebuilt, or used weighing or measuring device has been sold or delivered.

b. Such books shall be open for inspection at all reasonable times to any police officer, inspector or person duly authorized by the commissioner, or by any judge of the criminal court of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-6.0 added chap 929/1937 § 1

Sub b amended chap 100/1963 § 595

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-607

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-607 Comparison of testing equipment.

All persons dealing in, trading in, selling, receiving or repairing condemned, rebuilt or used weighing or measuring devices, shall submit their testing equipment at least once a year, to the testing station of the department for comparison and calibration with the prime standards maintained by such department, after which the department shall issue to such person a statement or certificate of its findings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-7.0 added chap 929/1937 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-608

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 1 DEALERS IN SECOND-HAND WEIGHING OR MEASURING DEVICES

§ 20-608 Violations.

Any person violating any of the provisions of this subchapter, upon conviction thereof, shall be fined a sum of not more than one hundred dollars for each offense, or by imprisonment not exceeding ten days, or by both, and, in the discretion of the commissioner, shall be liable to have his or her permit suspended, revoked or cancelled.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-8.0 added chap 929/1937 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986

§ 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-609

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 2 CHARCOAL*101

§ 20-609 Charcoal.

All charcoal and charcoal briquettes shall be sold by weight and each container in which charcoal or charcoal briquettes are sold or delivered, shall be plainly and conspicuously marked to show the net quantity of the contents in letters and figures commensurate with the size of the container as shall be determined and fixed by the commissioner, and shall also bear the legend "CAUTION COOK ONLY IN PROPERLY VENTILATED AREAS," or a substantially similar legend as may be approved by the commissioner in a size commensurate with the size of the container and so placed on the container as shall be determined and fixed by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-21.0 added chap 929/1937 § 1

Repealed and added LL 54/1968 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

101

[Footnote 101]: * Added chap 929/1937 § 1, repealed and added LL 54/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-610

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 2 CHARCOAL*101

§ 20-610 Punishment.

(a) Any person who shall violate any of the provisions of this subchapter shall be liable to forfeit and pay a civil penalty in the sum of not more than one hundred dollars ($100) for each violation.

(b) Any person who shall violate any of the provisions of this subchapter shall be guilty of an offense punishable by a fine of not less than twenty-five dollars ($25) nor more than two hundred fifty dollars ($250) for each offense, or by imprisonment for not less than thirty (30) days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-21.1 added LL 54/1968 § 2

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

101

[Footnote 101]: * Added chap 929/1937 § 1, repealed and added LL 54/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-667

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 4 HAMBURGERS AND CHOPPED MEAT

§ 20-667 Definitions.

Whenever used in this subchapter "hamburger" shall mean chopped fresh beef with or without the addition of beef fat, and of seasoning.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-99.0 added LL 4/1962 § 1

Renumbered chap 100/1963 § 602

(formerly § B36-96.0)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

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NYC Administrative Code 20-668

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 4 HAMBURGERS AND CHOPPED MEAT

§ 20-668 Standard for hamburger.

It shall be unlawful for any person to sell or offer for sale meat as hamburger unless it shall consist of chopped fresh beef with or without the addition of beef fat, or of seasoning, and in no case shall it contain more than thirty percent of beef fat.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-100.0 added LL 4/1962 § 1

Renumbered chap 100/1963 § 602

(formerly § B36-97.0)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-669

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 4 HAMBURGERS AND CHOPPED MEAT

§ 20-669 Labeling of chopped meat.

It shall be unlawful for any person to sell or offer for sale meat chopped in advance of sale as chopped meat unless it is labeled specifically to state the types of meat which it contains, and in no case shall such chopped meat contain more than thirty percent of fat.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-101.0 added LL 4/1962 § 1

Renumbered chap 100/1963 § 602

(formerly § B36-98.0)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-670

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 4 HAMBURGERS AND CHOPPED MEAT

§ 20-670 Sale of meat ground upon request by customer.

All meats purchased, whether prepackaged or cut to order, and then requested by customer to be ground on the premises, shall be ground in a meat grinder which shall be in clear and unobstructed view of the public.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-101.1 added LL 25/1962 § 1

Renumbered chap 100/1963 § 603

(formerly § B36-98.1)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-671

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 4 HAMBURGERS AND CHOPPED MEAT

§ 20-671 Violations.

A violation of any of the provisions of this subchapter shall be punishable by a fine of not less than twenty-five dollars nor more than two hundred fifty dollars for each offense, or by imprisonment not in excess of ten days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-102.0 added LL 4/1962 § 1

Renumbered chap 100/1963 § 602

(formerly § B36-99.0)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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NYC Administrative Code 20-672

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-672 Placards to be posted.

a. Except as provided in subdivision five of section one hundred ninety-two of the agriculture and markets law, it shall be unlawful for any person, in connection with the sale or offer for sale at retail of any petroleum products for use in motor vehicles or motor boats, other than gasoline or diesel motor fuel, to post or maintain at such place of sale or offer to sale, any sign, placard or other display that states, relates or refers to the price at which such petroleum products are sold or offered for sale, except as follows:

1. The price stated, mentioned or referred to on such sign, placard or other display, shall be by the unit of the measure at which such petroleum products are customarily sold at retail.

2. The name, trade name, brand, mark or symbol, and grade or quality classification, if any, and method of processing of such petroleum products shall be clearly stated on such signs, placard or other display, and, if such petroleum products are sold without identification by name, trade name, brand, mark or symbol, such sign, placard or other display shall refer clearly to such petroleum products as unbranded.

b. Where a sign, poster or placard advertises the selling price per gallon of gasoline or diesel motor fuel on, at or about the premises where such gasoline or diesel motor fuel is sold or offered for sale, or where such sign, poster or placard directly or indirectly refers to a premises where the advertised gasoline or diesel motor fuel is sold or offered for sale, such sign, poster or placard shall state the name, trade name, brand, mark or symbol and grade or quality

classification of such gasoline or diesel motor fuel, together with the total selling price per gallon. Total selling price shall be the sum of the basic price per gallon plus all applicable taxes. A retail dealer shall only sell at such posted price. Any such price when posted may not be raised for a period of not less than twenty-four hours. Such sign, poster or placard shall conform to the rules and regulations of all governmental agencies with jurisdiction as to structure and location.

c. All numbers referring to price shall be the same height, width and thickness, Identification of the gasoline or diesel motor fuel offered for sale shall be in letters and numbers not less than one-half of the height, width and thickness of the numbers referring to price. Letters and numbers shall be black on a white background.

d. Price per gallon indicator. Except as otherwise provided in article sixteen of the agriculture and markets law or in any rule or regulations promulgated thereunder, every gasoline or diesel motor fuel dispensing device shall be equipped with a price per gallon indicator and shall have such indicator correspond with the total price per gallon on the sign, poster or placard required to be posted pursuant to subdivision five of section one hundred ninety-two of such law or subdivision b of this section.

e. Total price indicator. Every gasoline or diesel motor fuel dispensing device shall be equipped with a total delivery indicator, and such indicator shall record the correct total price computed on the basis of posted price per gallon and number of gallons delivered.

f. Notwithstanding the foregoing, subdivisions a, b and c of this section shall not apply to the posting of information and labeling of dispensing devices with respect to the lead content of gasoline for motor vehicles, which shall be governed by the provisions of subdivision d and e of section 20-673.1 of this subchapter and any rules or regulations promulgated thereunder, and subdivisions a, b and c of this section shall not apply to the posting of information and labeling of dispensing devices with respect to the octane rating of gasoline for motor vehicles, which shall be governed by the provisions of subdivision d of section 20-673.2 of this subchapter and any rules or regulations promulgated thereunder.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended L.L. 31/1988 § 3.

Subd. a relettered L.L. 31/1988 § 2.

(formerly subd. b)

Subd. a repealed L.L. 31/1988 § 2.

Subd. b amended L.L. 38/2006 § 1, eff. Oct. 13, 2006.

Subds. b, c relettered L.L. 31/1988 § 2.

(formerly subds. c, d)

Subd. d amended L.L. 31/1988 § 3.

Subd. d relettered L.L. 31/1988 § 2.

(formerly subd. e)

Subd. e relettered L.L. 31/1988 § 2.

(formerly subd. f)

Subd. f added L.L. 77/1988 § 2.

Subd. f repealed L.L. 77/1988 § 1.

Subd. f added L.L. 31/1988 § 4.

DERIVATION

Formerly § B36-103.0 added LL 141/1939 § 1

Renumbered and amended LL 56/1941 § 1

(formerly § B36-101.0)

Amended LL 19/1974 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Section forbidding gasoline retail station proprietors from maintaining on the station premises any signs advertising the price of gasoline other than those permitted by the statute, which limited signs to placards on the individual pumps which should be between 7 and 12 inches in height, and 8 and 12 inches in width, **held** not unconstitutional as depriving defendant proprietor of its property without due process, since the restrictions as to signs were not more drastic than was reasonable to accomplish the purpose of preventing fraud in the retail sale of gasoline.-People v. Arlen Service Stations, Inc., 284 N.Y. 340, 31 N.E. 2d 184 [1940], rev'g, 175 Misc. 30, 21 N.Y.S. 2d 1006 [1940].

¶ 2. That fraud was neither charged nor proved against the defendant-proprietor was immaterial, since a business, however honest in itself, may be the subject of governmental regulation if it may become a medium of fraud. Neither might the court extend its inquiry into the realm of expediency where legislative judgment alone dictated the necessity for statutory regulation and its wisdom.-Id.

¶ 3. Likewise, defendant-proprietor was not deprived of the equal protection of the laws, inasmuch as the law affected alike all retail dealers in motor fuel and called for the uniform enforcement of the act itself.-Id.

¶ 4. Corporate defendant which operated a gasoline service station under its name "Sav-4-On Gallon, Inc.", maintaining over its office and service station a sign reading "Sav-4-On Gallon" in large letters, with the words "owned and operated by" and "Inc." being in smaller letters, and which also maintained two similar signs attached to the sides of a truck standing in an adjacent lot, **held** guilty of violation of Administrative Code § B36-103.0 prohibiting other certain size signs on gasoline stations referring to the price of gasoline. Contentions of defendant that such ruling nullified the use of its corporate title and prevented compliance with P.L. § 440-a requiring it to display its name upon the premises, were overruled.-People v. Save-4-On Gallon, Inc., 204 Misc. 708, 125 N.Y.S. 2d 5 [1953].

¶ 4.1. A complaint charging the maintenance of a sign on gasoline pumps measuring 5 x $3\frac{1}{2}$ feet, reading "Owned and Operated by 25 Stations, Inc.", with the red numerals "25" being 36" in height, while the other letters were not over 6 inches in height, presented a triable question of fact for the magistrate's court.-People v. 25 Stations, Inc., 3 N.Y. 2d 488, 168 N.Y.S. 2d 962, 146 N.E. 2d 691 [1957].

¶ 5. Gas station proprietor who maintained on premises adjacent to his gasoline station a sign 5 feet in height and 16 inches in width, advertising the sale of a particular brand of gasoline at a stated price, **held** not to have violated section prohibiting the maintenance "on the premises on which said gasoline is sold or offered for sale", a sign larger than 12 inches in height and 12 inches in width.-People v. Pearl, 173 Misc. 467, 17 N.Y.S. 2d 825 [1940].

¶ 6. Proprietor of retail gasoline station **held** not entitled to temporary injunction restraining enforcement against him of section forbidding gasoline retail station proprietors from maintaining on the station premises any signs advertising the price of gasoline other than those permitted by such statute, which limited signs to placards on the individual pumps which should be between 7 and 12 inches in height and 8 and 12 inches in width. The proprietor failed to show any right to the extraordinary relief sought by the injunction, and furthermore, court was of the belief that the statute was constitutional as being salutary inasmuch as it eradicated an evil and applied with equal force to all dealers.-Mestichelli v. Valentine, 173 Misc. 539, 18 N.Y.S. 2d 405 [1939].

¶ 7. This statute does not confer a right of action on a person damaged by a violation and its manifest intent is the protection of the buying public from fraud in the retail sale of gasoline. Action by one gas station operator to recover damages from another operator who had advertised in a manner prohibited by this section was dismissed.-Brody v. Saveway Northern Boulevard, Inc., 14 N.Y. 2d 576 [1964], rev'g, 19 App. Div. 2d 714, 242 N.Y.S. 2d 422 [1963].

¶ 8. This statute does not prohibit signs advertising that trading stamps are given with every purchase of gasoline.-People v. Carillo, 42 Misc. 2d 74, 246 N.Y.S. 2d 692 [1964].

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

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NYC Administrative Code 20-672.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-672.1 Sales Record Keeping Requirements.

a. Every retail dealer of petroleum products shall maintain a daily sales record of all petroleum products for which prices are required to be posted as provided in section 20-672. Such records shall document the total volume of each such type of product sold each day, the unit price and the total daily amount of sales for each such type of product, and the date and time when a change to the price posting specified in section 20-672 was made.

b. All records required to be maintained shall be preserved in a manner that ensures their security and accessibility for inspection by the department for a period of one year.

c. All records required to be maintained shall be kept in chronological order, either in writing or electronically, and shall be available for inspection by the department as follows:

1. Records maintained in writing shall be retained at the premises where sales are made for each of the immediately preceding thirty days. Such records shall be made available on demand to the department at such premises. The records required to be kept for the period beyond the immediately preceding thirty days shall be presented at the offices of the department within five business days after demand to produce them has been served on a retail dealer.

2. Records maintained electronically shall be retained on the premises in a manner that displays the data for the entire period for which the electronic data system retains such data to permit an inspector to view it on demand on the

device, and if such period is for less than the immediately preceding thirty days, then the data must be provided on demand in a chronologically ordered print-out for the full thirty days. A complete and accurate print out of the electronically maintained records that are required to be kept for the period beyond the immediately preceding thirty days shall be presented at the offices of the department within five business days after demand to produce them has been served on a retail dealer.

HISTORICAL NOTE

Section added L.L. 38/2006 § 2, eff. Oct. 13, 2006.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

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Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-673 Fraudulent practices prohibited.

It shall be unlawful for any person to sell or offer for sale gasoline or other petroleum products for use in motor vehicles or motor boats in any manner so as to deceive or tend to deceive the purchaser as to the price, nature, quality or identity thereof; provided, however, that this section shall not apply to the prohibition of deceptive practices involving the representation of gasoline for motor vehicles as unleaded, which shall be governed by the provisions of section 20-673.1 of this subchapter and any rules or regulations promulgated thereunder, and provided, further, that this section shall not apply to the prohibition of deceptive practices involving the certification, display or representation of the octane rating of gasoline for motor vehicles, which shall be governed by the provisions of section 20-673.2 of this subchapter and any rules or regulations promulgated thereunder. It shall be unlawful for any person to sell or offer for sale from any pump, dispensing devices or container any gasoline or other petroleum products other than gasoline or other petroleum products manufactured or distributed by the manufacturer or distributor marketing such gasoline or other petroleum products under the name, trade name, brand, symbol or mark affixed to or contained on such pump, dispensing device or container, or to substitute, mix or adulterate gasoline or other petroleum products sold or offered for sale under a name, trade name, brand, symbol or mark.

HISTORICAL NOTE

Section amended L.L. 31/1988 § 5.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-104.0 added LL 141/1939 § 1

Renumbered and amended LL 56/1941 § 1

(formerly § B36-102.0)

Amended LL 19/1974 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. This statute does not confer a right of action on a person damaged by a violation and its manifest intent is the protection of the buying public from fraud in the retail sale of gasoline. Action by one gas station operator to recover damages from another operator who had advertised in a manner prohibited by this section was dismissed.-Brody v. Saveway Northern Boulevard, Inc., 14 N.Y. 2d 576 [1964], rev'g, 19 App. Div. 2d 714, 242 N.Y.S. 2d 422 [1963].

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

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Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-673.1 Sale of unleaded gasoline.

a. Definitions. For purposes of this section, the following terms shall have the following meanings:

1. "Distributor" shall mean any person who transports or stores or causes the transportation or storage of gasoline at any point between any plant at which gasoline is produced and any retail outlet or facility of a wholesale purchaser-consumer.

2. "Gasoline" shall mean any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

3. "Lead additive" shall mean any substance containing lead or lead compounds.

4. "Leaded gasoline" shall mean gasoline which is produced with the use of any lead additive or which contains more than five one hundredths of a gram of lead per gallon or more than five one thousandths of a gram of phosphorus per gallon.

5. "Refiner" shall mean any person who owns, leases, operates, controls or supervises a plant at which gasoline is produced.

6. "Reseller" shall mean any person who purchases gasoline identified by the corporate, trade or brand name of a

refiner from such refiner or a distributor and resells or transfers it to retailers or wholesale purchaser-consumers displaying the refiner's brand, and whose assets or facilities are not substantially owned, leased or controlled by such refiner.

7. "Retail outlet" shall mean any establishment at which gasoline is sold or offered for sale for use in motor vehicles.

8. "Retailer" shall mean any person who owns, leases, operates, controls, or supervises a retail outlet.

9. "Unleaded gasoline" shall mean gasoline which is produced without the use of any lead additive and which contains not more than five one hundredths of a gram of lead per gallon and not more than five one thousandths of a gram of phosphorus per gallon.

10. "Wholesale purchaser-consumer" shall mean any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least five hundred fifty gallon capacity substantially under the control of that organization.

b. No distributor shall sell or transfer to any other distributor, retailer or wholesale purchaser-consumer any gasoline which is represented to be unleaded unless such gasoline meets the defined requirements for unleaded gasoline set forth in subdivision a of this section.

c. No retailer or employee or agent of a retailer, and no wholesale purchaser-consumer or employee or agent of a wholesale purchaser-consumer, shall sell, dispense or offer for sale gasoline represented to be unleaded unless such gasoline meets the defined requirements for unleaded gasoline set forth in subdivision a of this section.

d. Every retailer and wholesale purchaser-consumer shall affix to each gasoline pump stand in a location so as to be readily visible to the employees of such retailer or wholesale purchaser-consumer and to person*103 operating motor vehicles into which gasoline is to be dispensed a permanent legible label as follows: (i) for gasoline pump stands containing pumps for introduction of unleaded gasoline into motor vehicles, the label shall state: "Unleaded gasoline"; and (ii) for gasoline pump stands containing pumps for introduction of leaded gasoline into motor vehicles, the label shall state: "Contains lead anti-knock compounds"; provided, however, that where more than one grade of unleaded gasoline is offered for sale at a retail outlet, compliance with this subdivision is required for only one grade.

e. Notwithstanding any other provisions of law to the contrary, in any proceeding to adjudicate a violation of subdivision d of this section, a retailer or wholesale purchaser-consumer may be found not to be liable for violation thereof where it is shown that more than one grade of gasoline is dispensed from a gasoline pump or pump stand and it is demonstrated to the satisfaction of the commissioner that an alternative system of labeling furthers the objectives of such subdivision.

f. Any violation of subdivision c of this section by a retailer or wholesale purchaser-consumer shall also be deemed a violation by: (1) the reseller, if any, and the refiner, where the corporate, trade or brand name of such refiner or any of its marketing subsidiaries appears on the pump stand or is displayed at the retail outlet or wholesale purchaser-consumer facility from which the gasoline was sold, dispensed or offered for sale. Except as provided in subdivision g of this section, the refiner shall be deemed in violation of subdivision c of this section irrespective of whether any other refiner, distributor, retailer or wholesale purchaser-consumer may have caused or permitted the violation; or

(2) the distributor who sold such retailer or wholesale purchaser-consumer gasoline contained in the storage tank which supplied the pump from which the gasoline was sold, dispensed or offered for sale which gave rise to the violation, where the corporate, trade or brand name of a refiner or any of its marketing subsidiaries does not appear on the pump stand and is not displayed at the retail outlet or wholesale purchaser-consumer facility from which the gasoline was sold, dispensed or offered for sale.

g. (1) In any case in which a retailer or wholesale purchaser-consumer and any refiner or distributor would be in violation or be deemed in violation of subdivision c of this section, the retailer or wholesale purchaser-consumer shall not be liable if he or she can demonstrate that the violation was not caused by such retailer or wholesale purchaser-consumer or his or her employee or agent.

(2) In any case in which a retailer or wholesale purchaser-consumer would be in violation of subdivision c of this section, and a reseller, if any, and any refiner would be deemed in violation under paragraph one of subdivision f of this section, the refiner shall not be deemed in violation if he or she can demonstrate:

(a) that the violation was not caused by such refiner or his or her employee or agent, and

(b) that the violation was caused by an act in violation of any law, other than the provisions of this section, or an act of sabotage, vandalism, or deliberate commingling of leaded and unleaded gasoline, whether or not such acts are violations of law in the jurisdiction where the violation of the requirements of this section occurred, or

(c) that the violation was caused by the action of a reseller or a retailer supplied by such reseller, in violation of a contractual undertaking imposed by the refiner on such reseller designed to prevent such action, and despite reasonable efforts by the refiner to insure compliance with such contractual obligation, such as periodic sampling, or

(d) that the violation was caused by the action of a retailer who is supplied directly by the refiner and not by a reseller, in violation of a contractual undertaking imposed by the refiner on such retailer designed to prevent such action, and despite reasonable efforts by the refiner to insure compliance with such contractual obligation, such as periodic sampling, or

(e) that the violation was caused by the action of a distributor subject to a contract with the refiner for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, in violation of a contractual undertaking imposed by the refiner on such distributor designed to prevent such action, and despite reasonable efforts by the refiner to insure compliance with such contractual obligation, such as periodic sampling, or

(f) that the violation was caused by a distributor (such as a common carrier) not subject to a contract with the refiner but engaged by him or her for transportation of gasoline from a terminal to a distributor, retailer or wholesale purchaser-consumer, despite reasonable efforts by the refiner to prevent such action, such as specification or inspection of equipment, or

(g) that the violation occurred at a wholesale purchaser-consumer facility; provided, however, that if such wholesale purchaser-consumer was supplied by a reseller, the refiner must demonstrate that the violation could not have been prevented by such reseller's compliance with a contractual undertaking imposed by the refiner on such reseller as provided in subparagraph c of this paragraph.

(h) For purposes of subparagraphs (b) through (f) of this paragraph, the term "was caused" means that the refiner must demonstrate by reasonably specific showings by direct or circumstantial evidence that the violation was caused or must have been caused by another.

(3) In any case in which a retailer or wholesale purchaser-consumer would be in violation of subdivision c of this section, and a reseller and any refiner would be deemed in violation under paragraph one of subdivision f of this section, the reseller shall not be deemed in violation if he or she can demonstrate that the violation was not caused by such reseller or his or her employee or agent.

(4) In any case in which a retailer or wholesale purchaser-consumer would be in violation of subdivision c of this section, and any distributor would be deemed in violation under paragraph two of subdivision f of this section, the distributor will not be deemed in violation if he or she can demonstrate that the violation was not caused by such distributor or his or her employee or agent.

HISTORICAL NOTE

Section added L.L. 31/1988 § 6.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

103

[Footnote 103]: * So in original.

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CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-673.2 Certification, display and representation of octane rating.

a. For purposes of this section, the following terms shall have the following meanings:

1. "Gasoline" shall mean gasoline of a type distributed for use as a fuel in any motor vehicle.

2. "Distributor" shall mean any person who receives gasoline and distributes such gasoline to another person other than the ultimate purchaser.

3. "Retailer" shall mean any person who markets gasoline to the general public for ultimate consumption.

4. "Knock" shall mean the combustion of a fuel spontaneously in localized areas of a cylinder of a spark-ignition engine, instead of the combustion of such fuel progressing from the spark.

5. "Octane rating" shall mean the rating of the anti-knock characteristics of a grade or type of gasoline as determined by dividing by two the sum of the research octane number plus the motor octane number, unless another procedure is prescribed under paragraph three of subdivision c of section twenty-eight hundred twenty-three of title fifteen of the United States code, in which case such term shall mean the rating of such characteristics as determined under the procedure so prescribed.

6. "Refiner" shall mean any person engaged in the refining of crude oil to produce gasoline or the importation of

gasoline.

7. "Research octane number" and "motor octane number" shall have the meaning given such terms in the specifications of the American Society for Testing and Materials (ASTM) entitled "Standard Specifications for Automotive Gasoline" designated D 439 and, with respect to any grade or type of gasoline, are determined in accordance with test methods set forth in ASTM standard test methods designated D 2699 and D 2700, or such other meaning given such terms in any regulations promulgated by the federal trade commission pursuant to section twenty-eight hundred twenty-three of title fifteen of the United States code.

8. "Ultimate purchaser" shall mean, with respect to any item, the first person who purchases such item for purposes other than resale.

b. Each refiner who distributes gasoline shall:

(1) determine the octane rating of any such gasoline; and

(2) if such refiner distributes such gasoline to any person other than the ultimate purchaser, certify, consistent with the determination made under paragraph one of this subdivision, the octane rating of such gasoline.

c. Each distributor who receives gasoline, the octane rating of which is certified to the distributor under this section, and distributes such gasoline to another person other than the ultimate purchaser shall certify to such other person the octane rating of such gasoline consistent with:

(1) the octane rating of such gasoline certified to such distributor; or

(2) if such distributor elects, in accordance with the regulations of the federal trade commission, the octane rating of such gasoline determined by such distributor.

d. Each retailer shall display at the point of sale to ultimate purchasers of gasoline, the octane rating of such gasoline, in accordance with the posting requirements and label specifications to be prescribed by the commissioner by regulation. Such octane rating shall be consistent with:

(1) the octane rating of such gasoline certified to such retailer under paragraph two of subdivision b of this section or under subdivision c of this section;

(2) if such retailer elects, in accordance with the regulations of the federal trade commission, the octane rating of such gasoline determined by such retailer for such gasoline; or

(3) if such retailer is a refiner, the octane rating of such gasoline determined under paragraph one of subdivision b of this section.

e. No person who distributes gasoline may make any representation respecting the anti-knock characteristics of such gasoline unless such representation fairly discloses the octane rating of such gasoline consistent with such gasoline's octane rating as certified to, or determined by, such person under the foregoing subdivisions of this section.

f. For purposes of this section, the octane rating of any gasoline shall be considered to be certified, displayed or represented by any person consistent with the rating certified to, or determined by, such person:

(1) in the case of gasoline which consists of a blend of two or more quantities of gasoline of differing octane ratings, only if the rating certified, displayed or represented by such person is the average of the octane ratings of such quantities, weighted by volume; or

(2) in the case of gasoline which does not consist of such a blend, only if the octane rating such person certifies,

displays or represents is the same as the octane rating of such gasoline certified to, or determined by, such person.

HISTORICAL NOTE

Section added L.L. 31/1988 § 6.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

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CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-673.3 Inspection, investigation; recordkeeping.

a. The commissioner or the commissioner's designee, upon presentation of appropriate credentials, shall be authorized to enter upon or through the business premises of any person who sells or offers for sale gasoline or other petroleum products for use in motor vehicles or motor boats or any place where such gasoline or petroleum products is stored, for the purposes of making inspections, taking samples and conducting tests to determine compliance with the provisions of this subchapter or any rules*104 or regulation promulgated hereunder.

b. Whenever the commissioner has reason to believe that a violation of this subchapter or any rule or regulation has occurred, he or she shall be authorized to make such investigation as he or she shall deem necessary, and to the extent necessary for this purpose, he or she may examine any person and may compel the production of all relevant records.

c. Any person subject to the provisions of this subchapter shall maintain such written records as the commissioner may prescribe by regulation.

HISTORICAL NOTE

Section added L.L. 31/1988 § 6.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

104

[Footnote 104]: * So in original.

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***** Current through December 2009 ****

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Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-674 Violations.

a. (1) Any person who violates the provisions of this subchapter or any rules or regulations promulgated thereunder, other than sections 20-673.1 and 20-673.2 and any rules or regulations promulgated thereunder, shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars nor more than ten thousand dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

(2) Any person who violates the provisions of this subchapter or any rules or regulations promulgated thereunder, other than sections 20-673.1 and 20-673.2 and any rules or regulations promulgated thereunder, who has been found guilty of a violation of any such sections or such rules or regulations two times within the preceding twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars nor more than fifteen thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

(3) In addition to the penalties prescribed by paragraph one of subdivision a of this section, any person who violates the provisions of this subchapter or any rules or regulations promulgated thereunder, other than sections 20-673.1 and 20-673.2 and any rules or regulations promulgated thereunder, shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars.

(4) In addition to the penalties prescribed by paragraph two of subdivision a of this section, any person who

violates the provisions of this subchapter or any rules or regulations promulgated thereunder, other than sections 20-673.1 and 20-673.2 and any rules or regulations promulgated thereunder, who has been found guilty of a violation of any such sections or such rules or regulations two times within the preceding twenty-four month period shall be liable for a civil penalty of not less than one thousand dollars nor more than fifteen thousand dollars.

b. Any person who violates the provisions of section 20-673.1 of this subchapter or any rules or regulations promulgated thereunder shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars.

c. (1) If, after providing due notice and an opportunity to be heard, the commissioner finds that a person has violated any of the provisions of section 20-673.2 of this subchapter or any rule or regulation promulgated thereunder, he or she shall be authorized to issue and serve upon such person an order requiring such person to cease and desist from engaging in the prohibited activity. Such order shall become final (i) upon the expiration of the time allowed for filing any administrative appeal which may be available and for commencing a proceeding pursuant to article seventy-eight of the civil practice law and rules or (ii) upon the exhaustion of all appeals arising out of the proceedings described in item (i) of this paragraph. Any person who violates an order of the commissioner issued hereunder after it has become final shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars for each violation.

(2) Any person who violates the provisions of section 20-673.2 of this subchapter or any rules or regulations promulgated thereunder with actual knowledge or knowledge fairly implied on the basis of objective circumstances that the act or practice underlying the violation is unfair or deceptive shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars; provided, however, that in order for any retailer to be held liable under this paragraph for violating any of the provisions of subdivisions d or e of such section 20-673.2, such retailer shall be shown to have had actual knowledge that the act or practice underlying the violation is unfair or deceptive. In determining the amount of any civil penalty imposed under this paragraph, the following shall be considered: the degree of culpability; any history of prior such conduct; ability to pay; effect on ability to continue to do business; and such other matters as justice may require.

d. In the case of a violation through continuing failure to comply with any of the provisions of this subchapter, any rules or regulations promulgated thereunder, or any order of the commissioner issued pursuant to subdivision c of this section, each day of the continuance of such failure shall be treated as a separate violation.

e. The civil penalties prescribed by the provisions of this section may be imposed by the commissioner after due notice and an opportunity to be heard have been provided or may be recovered in a civil action in the name of the city, commenced in a court of competent jurisdiction. In any civil action commenced to recover civil penalties for violation of a final order of the commissioner issued pursuant to subdivision c of this section, the supreme court of New York is empowered to grant such injunctive or equitable relief as the court deems appropriate in the enforcement of such final order.

f. Notwithstanding the foregoing, the commissioner shall cause to be published in the City Record once each month the name and business location of any person, firm or corporation that has been found to have violated any provision of sections 20-673.1 or 20-673.2 during the month immediately preceding.

HISTORICAL NOTE

Section repealed and added L.L. 31/1988 § 7.

Section added chap 907/1985 § 1

Subd. f added L.L. 28/1988 § 1.

DERIVATION

Formerly § B36-105.0 added LL 141/1939 § 1

Renumbered and amended LL 56/1941 § 1

(formerly § B36-103.0)

Amended LL 19/1974 § 1

Amended LL 33/1974 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-675

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 5 SALES OF PETROLEUM PRODUCTS*102

§ 20-675 Rules and regulations.

The commissioner shall have the authority to promulgate such rules and regulations as the commissioner shall deem necessary to effectuate the purpose of this subchapter, including but not limited to the size, the composition, the type size to be used for lettering, and the placement of signs which are provided for in section 20-672 of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-105.1 added LL 19/1974 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986

§ 6.
102

[Footnote 102]: * Subchapter heading amended L.L. 31/1988 § 1, derived from Article 8 added LL 141/1939 § 1, renumbered and amended LL 56/1941 § 1, formerly Article 7, amended LL 19/1974 § 1.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-676

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-676 Definitions.

As used in this subchapter, the following terms shall mean and include:

(a) "Pickled." Preserved by soaking in a curing solution.

(b) "Pumped." Injected with a curing solution through the veins, arteries or muscular structure.

(c) "Curing solution." A liquid solution for the pickling or curing of meats.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-106.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-677

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-677 Sales at retail.

It shall be unlawful for any person to sell or offer for sale, at retail, any pickled, pumped, cured, or otherwise processed meats or meat products which shall contain added curing solution or any other liquid more than ten percent, by weight, of the total weight of the meat, except that pickled, pumped, cured, or otherwise processed beef brisket shall not contain more than twenty percent, by weight, of added curing solution or any other liquid.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-107.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-678

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-678 Sales at wholesale.

It shall be unlawful for any person to sell, or offer for sale at wholesale, any pickled, pumped, cured, or otherwise processed meats or meat products which shall contain added curing solution or any other liquid more than ten percent, by weight, of the total weight of the meat, except that pickled, pumped, cured, or otherwise processed beef brisket shall not contain more than twenty percent, by weight, of added curing solution or any other liquid.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-108.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-679

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-679 Injection devices.

It shall be unlawful for any person to have in or upon any vehicle transporting meat and meat products within the city of New York, any hypodermic, syringe, pump, or other device that can be used for the injection or pumping of any fluid or other substance into the meat.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-109.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986

§ 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-680

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-680 Labeling of pickled, pumped and cured meats and meat products.

All pickled, pumped and cured meat and meat products shall be labeled as to net weight and shall specify the percentage, by weight, of added curing solution.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-110.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

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NYC Administrative Code 20-681

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 6 SALE OF MEATS

§ 20-681 Punishment.

(a) Any person who shall violate any of the provisions of this subchapter shall be liable to forfeit and pay a civil penalty in the sum of not more than one hundred dollars for each violation.

(b) Any person who shall violate any of the provisions of this subchapter shall be guilty of an offense and punishable by a fine of not less than twenty-five dollars nor more than two hundred fifty dollars, for each offense, or by imprisonment for not more than thirty (30) days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-111.0 added LL 39/1962 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-682

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 7 SALE OF PREPACKAGED MEAT

§ 20-682 Sales of prepackaged meats.

a. It shall be unlawful for any owner, manager, or supervisor of a retail store or any independently operated department within, to sell or offer or expose for sale, at retail any prepackaged unprocessed or untreated fresh or frozen meat unless at least one of the sides with the greatest surface area of the package is colorless and transparent, exclusive of labeling; which labeling shall not occupy more than ten percent of that side of the package, or six and one quarter (6.25) square inches, whichever is greater. This section shall be applicable solely in those cases where the packaging is performed on the premises of the sale. This section shall not apply to the sale of ground meat.

b. A sign shall be posted at the point of display of any prepackaged unprocessed or untreated fresh or frozen meat, the packaging of which is colorless and transparent on only one side in accordance with the provisions of subdivision a of this section, stating that the retailer shall accept the return of such prepackaged meat found to be unsatisfactory upon the request of a consumer who provides proof of purchase and further stating that the retailer shall either refund the full purchase price or provide a satisfactory replacement for such purchase. The size and wording of such sign shall be determined by rule of the commissioner.

HISTORICAL NOTE

Section amended L.L. 25/1996 § 1, eff. Mar. 18, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-113.0 added LL 9/1968 § 1

Amended LL 27/1968 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

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NYC Administrative Code 20-683

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 7 SALE OF PREPACKAGED MEAT

§ 20-683 Punishment.

Any person who shall violate any of the provisions of this subchapter shall be liable to forfeit and pay a civil penalty in the sum of not more than five hundred dollars for each violation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-114.0 added LL 9/1968 § 1

(Laid out in amendment by LL 27/1968 § 1)

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-684

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 8 PERISHABLE FOODS

§ 20-684 Legislative intent.

The council finds that consumers cannot be certain that food offered for sale is fresh or that it will remain fresh for a reasonable period of time after it is purchased. The council particularly recognizes consumer concern with the freshness of foods including, but not limited to, meat, poultry, fish, dairy products, eggs, fruit, vegetables and baked goods. The council further finds that the food industry's practice of controlling food freshness through coded dates has proven inadequate for protection of the public. The council has concluded that a mandatory system of clear and legible dating accompanied by a statement of recommended conditions of storage is the best way to assure consumers of the freshness of the foods that they buy in stores.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-120.1 added LL 17/1971 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-685

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 8 PERISHABLE FOODS

§ 20-685 Perishable foods.

It shall be unlawful to sell or offer for sale any perishable food designated by the commissioner in accordance with section 20-686 hereof unless there is stamped, printed or otherwise plainly and conspicuously marked on the top cover or principal panel of its container or any label affixed thereto the statements indicating recommended conditions and methods of storage, and the fact that it is not to be sold after a clearly specified date for human consumption as food.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-120.2 added LL 17/1971 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-686

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 8 PERISHABLE FOODS

§ 20-686 Regulations.

The commissioner shall promulgate regulations designating those perishable foods which shall come within the scope of section 20-685 of this subchapter wherever the commissioner shall find that because of the nature of the commodity, the mode of packaging or other consideration, such information about the commodity shall be necessary and proper to provide adequate information to the consumer as to the perishable nature of such commodity and conditions of storage.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-120.3 added LL 17/1971 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-687

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 8 PERISHABLE FOODS

§ 20-687 Powers of the commissioner.

(a) The commissioner shall receive and evaluate complaints and initiate his or her own investigations relating to these matters and take appropriate action related thereto including stop-sale and stop-removal orders where necessary and proper.

(b) The commissioner shall have the power after reasonable notice and hearing, to determine the reasonableness of any statement or representation as to the date and conditions of storage affixed pursuant to section 20-685 of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-120.4 added LL 17/1971 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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Administrative Code of the City of New York

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NYC Administrative Code 20-688

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 8 PERISHABLE FOODS

§ 20-688 Penalties.

Any person, firm, corporation or association or agent or employee thereof, who shall violate any of the provisions of this subchapter or of the regulations promulgated pursuant to section 20-686 shall pay a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation; and shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than two hundred fifty dollars for each such violation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-120.5 added LL 17/1971 § 1

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-689

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 9*105 WATER SAVING PLUMBING FIXTURES

§ 20-689 Water saving plumbing fixtures.

(1) It shall be unlawful for any person to distribute, sell, offer for sale or import any plumbing fixture which does not meet the standards of subdivision P.104.2 of section P.104.0 of reference standard RS-16 of the appendix to chapter one of title twenty-seven of this code.

(2) All product packaging containing such fixtures shall include the following information:

i. the manufacturer's name or registered trademark and the model number of the fixture or fixtures; and

ii. the gallon/liter water consumption rate per flush of a water closet or urinal; and

iii. a. "Water Use Guide" label that is designed for the purpose of educating and promoting water and water-related cost savings; the label shall state the monthly and yearly cost of the fixture based on the average monthly and yearly usage and the cost of water and sewer service per thousand gallons for the range of water rates existing in the city of New York.

HISTORICAL NOTE

Section added L.L. 29/1989 § 6.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

105

[Footnote 105]: ** Subchapter added L.L. 29/1989 § 6. There are 2 subchapters 9.

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Administrative Code of the City of New York

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NYC Administrative Code 20-690

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 9*105 WATER SAVING PLUMBING FIXTURES

§ 20-690 Punishment.

Any person who shall violate any of the provisions of this subchapter shall be liable to forfeit and pay a civil penalty in the sum of not more than five hundred dollars for each violation.

HISTORICAL NOTE

Section added L.L. 29/1989 § 6.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

105

[Footnote 105]: ** Subchapter added L.L. 29/1989 § 6. There are 2 subchapters 9.

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Administrative Code of the City of New York

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NYC Administrative Code 20-691

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 9*106 PRICE DISPLAYS

§ 20-691 Price displays.

a. In any food store which has one or more cash registers with item cost indicators, said indicators shall at all times remain visible to customers making payment for items purchased or for services rendered.

b. Cash registers purchased for use in food stores in the city on and after the effective date of this section shall have item cost indicators and shall comply with the requirements of subdivision a hereof.

c. For the purpose of this section, "food store" shall be defined as a store selling primarily food and food products, cosmetics or toiletries at retail, for consumption or use off the premises.

d. For the purposes of this section, "food" and "food products" shall be defined as all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose.

e. For the purposes of this section, "cash register" shall be defined as any business machine designed for the prupose of, or which may be used for, the aggregation of several items or units of measure in number form as a total selling price. Cash register shall include, but not be limited to, devices which have a cash drawer or other cash receptacle or depository.

f. For the purposes of this section "item cost indicators" shall be defined as any indicator either built in to a cash register or appurtenant thereto, which mechanically or electronically, or in any other way, indicates or displays the price charged for each item or unit of measure purchased.

HISTORICAL NOTE

Section added L.L. 94/1989 § 1.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

106

[Footnote 106]: * Subchapter added L.L. 94/1989 § 1. There are 2 subchapters 9.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-692

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 9*106 PRICE DISPLAYS

§ 20-692 Punishment.

Any person who shall violate any of the provisions of subdivisions a or b of section 20-691 shall be subject to a civil penalty of not less than one hundred dollars nor more than one hundred fifty dollars for each violation.

b. Each day a violation is continued shall constitute a separate violation.

HISTORICAL NOTE

Section added L.L. 94/1989 § 1.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

106

[Footnote 106]: * Subchapter added L.L. 94/1989 § 1. There are 2 subchapters 9.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-693

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 9*106 PRICE DISPLAYS

§ 20-693 Rules and regulations.

The commissioner shall promulgate such rules and regulations as he or she shall deem necessary to effectuate the purposes of this subchapter.

HISTORICAL NOTE

Section added L.L. 94/1989 § 1.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

106

[Footnote 106]: * Subchapter added L.L. 94/1989 § 1. There are 2 subchapters 9.

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Administrative Code of the City of New York

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NYC Administrative Code 20-694

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 10 THERMAL-SHOCK PROTECTION DEVICES*107

§ 20-694 Thermal-Shock Protection Devices.

It shall be unlawful for any person to distribute, sell, offer for sale or import any water supply control valve which does not meet the standards of subdivision P107.6 of section P107.0 of the appendix to chapter one of title twenty-seven of this code.

HISTORICAL NOTE

Section added L.L. 86/1996 § 1, eff. May 4, 1997.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

107

[Footnote 107]: ** Subchapter added L.L. 86/1996 § 1, eff. May 4, 1997.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-695

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 10 THERMAL-SHOCK PROTECTION DEVICES*107

§ 20-695 Penalty.

Any person who shall violate any of the provisions of this subchapter shall be subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars for each violation.

HISTORICAL NOTE

Section added L.L. 86/1996 § 1, eff. May 4, 1997.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

107

[Footnote 107]: ** Subchapter added L.L. 86/1996 § 1, eff. May 4, 1997.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-696

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 11 GAUGES UTILIZING MERCURY*125

§ 20-696 Gauges Utilizing Mercury.

It shall be unlawful for any person to distribute, sell or offer for sale any gauge that utilizes mercury to test the pressure of gas piping, drainage or vent systems or for any person to distribute, sell or offer for sale replacement mercury for use in such gauges.

HISTORICAL NOTE

Section added L.L. 17/2001 § 2, eff. Sept. 26, 2001.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

125

[Footnote 125]: * Subchapter added L.L. 17/2001 § 2, note further provisions of such Local Law:

Section 1. Legislative findings and intent. The Council finds that there are accurate gauges currently available to test gas piping systems, as well as drainage and vent systems, that do not use mercury. The Council further finds that when mercury is used in gauges it has been known to escape the gauge and cause contamination of the surrounding area. Mercury that has spilled and not been adequately cleaned up can have adverse effects on the inhabitants of buildings. As there are now viable alternatives to gauges that use mercury, and the risk of mercury contamination can be eliminated by banning its use for this purpose, the Council finds there is a compelling reason to ban the use of gauges that utilize mercury for gas pipe testing and to eliminate the use of such gauges for the testing of drainage and vent systems. Further, the Council finds that consistent with this ban on the use, is a ban on the sale, of gauges that utilize mercury for gas pipe testing and on the sale of replacement mercury for these gauges.

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NYC Administrative Code 20-697

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 4 REGULATION OF COMMODITIES AND SERVICES*99

SUBCHAPTER 11 GAUGES UTILIZING MERCURY*125

§ 20-697 Penalty.

Any person who shall violate any of the provisions of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars for each violation.

HISTORICAL NOTE

Section added L.L. 17/2001 § 2, eff. Sept. 26, 2001.

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

125

[Footnote 125]: * Subchapter added L.L. 17/2001 § 2, note further provisions of such Local Law:

Section 1. Legislative findings and intent. The Council finds that there are accurate gauges currently available to test gas piping systems, as well as drainage and vent systems, that do not use mercury. The Council further finds that when mercury is used in gauges it has been known to escape the gauge and cause contamination of the surrounding area. Mercury that has spilled and not been adequately cleaned up can have adverse effects on the inhabitants of buildings. As there are now viable alternatives to gauges that use mercury, and the risk of mercury contamination can be eliminated by banning its use for this purpose, the Council finds there is a compelling reason to ban the use of gauges that utilize mercury for gas pipe testing and to eliminate the use of such gauges for the testing of drainage and vent systems. Further, the Council finds that consistent with this ban on the use, is a ban on the sale, of gauges that utilize mercury for gas pipe testing and on the sale of replacement mercury for these gauges.

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SUBCHAPTER 12*130 ENDANGERED OR THREATENED SPECIES

§ 20-698 Definitions.

Whenever used in this subchapter:

a. "Endangered or threatened species" shall mean any fish or wildlife family, genus, species, subspecies or population that is designated by or pursuant to New York law as endangered or threatened.

b. "Fish or wildlife" shall mean any member of the animal kingdom, including without limitation any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

c. "Population" shall mean a group of fish or wildlife of the same species or subspecies inhabiting a defined geographical area.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12

footnote]

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

130

[Footnote 130]: * Subchapter 12 added L.L. 55/2004 § 2, eff. Mar. 1, 2005. Note further provisions of L.L. 55/2004:

Section 1. Declaration of Legislative Findings and Intent. Illegal trade poses a major threat to endangered wildlife throughout the world and must be curtailed in order to ensure the continued survival of these species in the wild. Examples of illegal trade can be found in a variety of sectors, including the trades in exotic pets, fine furs and leathers, tourist curios, game meats, and traditional medicines. Despite numerous state, national, and international laws prohibiting or regulating much of this trade, the illegal wildlife trade thrives. To gauge one small sector of this trade, TRAFFIC North America, the wildlife trade monitoring program of World Wildlife Fund, conducted a market survey in New York City's Chinatown in the spring of 2003 to determine if, and how frequently, illegal or regulated wildlife products were being sold in traditional medicine shops. Of the 27 shops surveyed, 12 displayed medicines containing, or claiming to contain, tiger bone or rhino horn. In addition, all of the stores were found to be selling products containing bear bile, musk (derived from musk deer) and leopard bone. These are just a sampling of products made from threatened and endangered species that can be found for sale in a variety of shops not only in New York City's Chinatown, but throughout the city and in various other communities throughout the United States.

It is illegal under federal and state law to sell or offer to sell many of the products uncovered in TRAFFIC's 2003 survey. These products, however, often go unnoticed, as authorities do not have the time or resources to regularly scour the shelves of stores in New York City. When offenders are caught, it is often difficult to prosecute them-in many instances, in order to prove a case, law enforcement personnel must employ expensive and often inconclusive DNA testing in an effort to demonstrate that a given product contains or is a part of an endangered species. For these reasons, not only are endangered and threatened species sold in New York City, but they are also sold openly, often with packaging that advertises their contents.

The Council finds that the advertising of an illegal product, such as a product that contains an endangered or threatened species, flouts and undermines respect for the law and that the purveyors of such products should not be permitted to act with such impunity. The Council further finds that the necessity of proving that a product advertised as containing an endangered or threatened species actually contains such species strains law enforcement resources. The Council therefore finds it imperative that New York City impose additional penalties on the sale or purchase of products claiming to be or to contain ingredients derived from an endangered or threatened species.

. . . . . §3. This local law shall take effect 90 days after its enactment, except that the commissioner of consumer affairs shall take all actions necessary to implement this local law on or before the dates upon which the provisions of this local law shall take effect.

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SUBCHAPTER 12*130 ENDANGERED OR THREATENED SPECIES

§ 20-699 Prohibition.

a. Except with a federal or state permit or license or under any exception under federal or state law, it shall be unlawful to buy or sell, offer or attempt to buy or sell, or cause any person to buy or sell:

(1) any product, item, or substance described in an offer for sale, labeled, or advertised as derived from any endangered or threatened species, or described in an offer for sale, labeled, or advertised as containing any substance derived from any endangered or threatened species; or

(2) any product, item, or substance that is intended for human consumption or application and is described in an offer for sale, labeled, or advertised as derived from any species of rhinoceros or tiger, or described in an offer for sale, labeled, or advertised as containing any substance derived from any species of rhinoceros or tiger; or

(3) any species described in an offer for sale, labeled, or advertised as any endangered or threatened species.

b. It shall be unlawful to include false or misleading information in any offer for sale, label, or advertisement for any endangered or threatened species or any product, item, or substance derived from or containing any substance derived from any endangered or threatened species. For the purposes of this subchapter, any omission of or failure to state a material fact shall be considered inclusion of false or misleading information.

c. The prohibitions of this subchapter shall apply to any offer for sale, label or advertisement that refers to any endangered or threatened species by its common name or by its scientific name.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12

footnote]

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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SUBCHAPTER 12*130 ENDANGERED OR THREATENED SPECIES

§ 20-699.1 Publication of endangered and threatened species list.

No later than April 1, 2005, and at least annually thereafter, the commissioner shall publish a list using the department's website for the purpose of ensuring compliance by merchants with the provisions of this subchapter. Such list shall include guidance regarding the identification of any fish or wildlife family, genus, species, subspecies or population designated by or pursuant to New York law as endangered or threatened and shall also separately specify whether all populations of any family or genus so identified are designated as endangered or threatened by or pursuant to New York law. Such list shall be published in English and Chinese.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12 footnote]

FOOTNOTES

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[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.
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[Footnote 130]: * Subchapter 12 added L.L. 55/2004 § 2, eff. Mar. 1, 2005. Note further provisions of L.L. 55/2004:

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§ 20-699.2 Penalties.

Any person that violates any provision of section 20-699 after October 1, 2005 shall be subject to a civil penalty of not more than five hundred dollars for the first violation and each additional violation occurring on the same day as the first violation, and not less than five hundred dollars nor more than one thousand five hundred dollars for each subsequent violation occurring within a period of twenty-four months.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12 footnote]

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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§ 20-699.3 Seizure and forfeiture.

Any product, item, substance, or species bought or sold, or attempted to be bought or sold, after October 1, 2005 in violation of section 20-699 or any regulation issued pursuant to this subchapter shall be subject to forfeiture upon notice and judicial determination.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12 footnote]

FOOTNOTES

99

[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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§ 20-699.4 Rules.

The commissioner shall have the authority to promulgate such rules and regulations as the commissioner shall deem necessary to implement the provisions of this subchapter.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12 footnote]

FOOTNOTES

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[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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§ 20-699.5 Enforcement.

The commissioner and the members of the police department shall have the authority to enforce this subchapter.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12 footnote]

FOOTNOTES

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[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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§ 20-699.6 Hearing authority.

Notwithstanding any other provision of law, the department shall be authorized, after October 1, 2005, upon due notice and hearing, to impose civil penalties for the violation of any provision of this subchapter. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-699.2 of this subchapter for each such violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2)* All such136 proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein. In addition to serving the notice on the person being charged, where written authorization is filed with the department, the department shall deliver by first class mail a copy of the notice to the corporate headquarters or wholesale supplier of such person.

HISTORICAL NOTE

Section added L.L. 55/2004 § 2, eff. Mar. 1, 2005. [See Subchapter 12

footnote]

FOOTNOTES

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[Footnote 136]: * There is no subdivision (1) designation corresponding to this subdivision (2) designation.

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APPENDIX OF REPEALED SUBCHAPTERS

SUBCHAPTER 3 SOLID FUEL DEALERS [Repealed]

Former Subchapter 3 comprised of §§20-611-20-666 repealed L.L. 60/1992 § 1, eff. July 23, 1992. Formerly §§ B36-22.0-B36-77.0 added chap 929/1937 § 1, and further § B36-22.0 subd. 1 amended L.L. 50/1942 § 144; § B36-26.0 subd. b amended L.L. 39/1957 § 8; § B36-27.0 subd. b amended L.L. 50/1942 § 145; § B36-30.0 subd. b amended L.L. 39/1957 § 9; § B36-34.0 amended in part L.L. 50/1942 § 147, L.L. 42/1961, L.L. 66/1979; § B36-37.0 amended L.L. 14/1966; § B36-39.0 amended L.L. 50/1942 § 148; § B36-41.0 amended L.L. 50/1942 § 148; § B36-44.0 subd. b amended L.L. 39/1957 § 10; § B36-62.0 amended in part L.L. 50/1942 § 149; § B36-66.0 amended L.L. 50/1942 § 148; § B36-70.0 subd. b amended L.L. 39/1957 § 13.

CASE NOTES FROM FORMER SECTION 20-612

¶ 1. Evidence, consisting of testimony of two inspectors, **held** to sustain conviction of defendant for selling and delivering 17,675 pounds of coal on the representation that it weighed 20,000 pounds, as against contention of defendants that the figures 20,000 on the delivery ticket were changed to 17,000 before the coal left the yard (Admin. Code § B36-23.0).-People (Weisent) v. Mishkin, 170 Misc. 889, 11 N.Y.S. 2d 77 [1939], aff'd, 281 N.Y. 765, 24 N.E. 2d 22 [1939].

¶ 2. Complaint, alleging that defendants "did unlawfully sell and deliver" coal of less weight then represented, was sufficient to sustain a charge under Administrative Code § B36-23.0, without an allegation that defendants "knowingly"

did so.-Id.

¶ 3. Language of Administrative Code § B36-23.0 is sufficient to cover an attempt to sell or deliver less than the represented weight, and consequently it was not necessary to prove that defendants actually delivered a quantity less than represented.-Id.

¶ 4. If the acts specified in Administrative Code § B36-23.0 are regarded as merely mala prohibita, intent or knowledge are not an element of proof.-Id.

¶ 5. Coal dealer which had hired a truck and driver from an independent truckman and had given the driver a ticket to purchase nine tons of coal at a certain yard for delivery at a certain address, **held** not liable for a violation of Administrative Code § B36-23.0 where the driver had delivered only eight tons at the address given so that he might convert the retained ton to his own use. The dealer had actually sold and started out to deliver nine tons of coal as ordered by the purchaser and therefor was not guilty of a violation of the first part of the statute. The second part of the statute, involving the person who knowingly delivers less than the quantity he represents he is selling or delivering, was applicable, but this required knowledge on the dealer's part of the delivery of a lesser amount than represented.-People v. J.T. Reynolds Corp., 178 Misc. 138, 33 N.Y.S. 2d 314 [1942], aff'd without opinion, 289 N.Y. 58, 43 N.E. 2d 830 [1942].

¶ 6. A defendant's guilt may be predicated upon either or both parts of Administrative Code § B36-23.0, depending upon the facts.-Id.

CASE NOTES FROM FORMER SECTION 20-618

¶ 1. Administrative Code § B36-29.0, subd. b, requiring a license for operation of a vehicle for transportation of solid fuel, **held** not unconstitutional as an unlawful interference with interstate commerce, since the statute was intended to protect the public interest by preventing fraud and imposition upon coal consumers in the City of New York, by protecting honest coal dealers against unlawful competition arising from sale of stolen coal on a wholesale basis, and by aiding the police and the Department of Markets in detecting crime and cheating in the coal industry. Interstate commerce was only incidentally involved, there was no federal legislation covering the subject matter of the statute, and the presumptions favor the constitutionality of statutes.-People (Marquardt) v. Adduci, 176 Misc. 697, 28 N.Y.S. 2d 511 [1941], rev'd, 33 N.Y.S. 2d 873 [1942] on authority of People (Curry) v. Adduci, 178 Misc. 269, 33 N.Y.S. 2d 869 [1942].

¶ 2. Section B36-29.0, subd. b, was not unconstitutional as in violation of Vehicle and Traffic Law § 54 which prohibits a municipality from legislating on the same subject to the same end, since the statute was essentially an inspection law that did not forbid the operation on the public highways of trucks carrying coal, but merely prescribed an owner's plate for identification purposes to carry out the legitimate object of the statute.-Id.

¶ 3. Defendant who in his employment as a truck driver by a Long Island coal dealer made daily trips to truck coal from a mine in Pennsylvania through New York City to the Long Island yards of his employer, was not required to possess a coal truck license by Administrative Code § B36-29.0 (b), since chapter 36 provides merely for the licensing of local coal dealers operating in and within the City, and for the identifying, by means of the certificate of origin, of those engaged in transporting coal from outside the state, either for sale or delivery within the state, or transporting coal through the City for sale and delivery outside the City.-People (Curry) v. Adduci, 178 Misc. 269, 33 N.Y.S. 2d 869 [1942].

CASE NOTES FROM FORMER SECTION 20-622

¶ 1. Administrative Code § B36-33.0, requiring the weight and poundage of the contents of the vehicle to be imprinted on the side of the truck, **held** inapplicable to dealer who was transporting a truckload of anthracite from Pennsylvania to his own yard in the City, inasmuch as such transaction should be considered the same as a cargo

delivery, which is excepted from such requirement under Administrative Code § B36-42.0.-Marquardt v. Castoro, 68 N.Y.S. 2d 327 [1947].

CASE NOTES FROM FORMER SECTION 20-623

¶ 1. Administrative Code § B36-34.0, providing that all types of solid fuel, "other than coke, soft coal, anthracite, buckwheat, rice, barley, or dust," must be sold or delivered in quantities of one ton or multiples thereof, and imposing certain other regulations, **held** not to exclude **all** types of anthracite, since clearly insertion of comma after word "anthracite" was a palpable error, inasmuch as the comma did not appear in the Code of ordinances provision which had otherwise been adopted without change. Administrative Code § 982-1.0, expressed the legislative intent not to change the law in substance, and if the comma were given effect it would defeat the intent of the legislature to adopt the Code of ordinances, provision unchanged.-People (Lifton) v. Capital Fuels of Queens, Inc., 170 Misc. 763, 11 N.Y.S. 2d 22 [1939], aff'g, 168 Misc. 912, 6 N.Y.S. 2d 243 [1938], aff'd without opinion, 281 N.Y. 728, 23 N.E. 2d 547 [1939].

¶ 2. Administrative Code § B36-34.0, regulating the sale of solid fuel and imposing such requirements as sale by weight, weighing by licensed weighmaster, vendors' permits, transportation in licensed vehicles, and sale in multiples of one ton, **held** not unconstitutional as an arbitrary interference with rights of citizens, since it constituted a carefully worked out plan to protect the public and promote the general welfare by guarding the householder against fraud or mistake in an essential commodity.-Id.

¶ 3. Such statute was not unconstitutional on ground it was discriminatory because it exempted the County of Richmond from its application, inasmuch as the exempted area comprised an entire county somewhat remotely separated from the other four boroughs, less densely populated, and presumably not as yet in need of the regulations.-Id.

CASE NOTES FROM FORMER SECTION 20-626

¶ 1. Administrative Code § B36-37.0, subd. c, requiring each fuel delivery ticket to be issued in triplicate and serially numbered in each yard or branch and used only in consecutive order, is carefully drawn and designed to prevent fraud and should be sustained unless the hardship is out of proportion to the public welfare sought to be conserved.-People (Spencer) v. Capital Fuels of Queens, Inc., 170 Misc. 769, 11 N.Y.S. 2d 26 [1939].

¶ 2. Prosecution of retail coal dealer for violation of § B36-37.0, subd. c, requiring delivery tickets to be numbered serially and used in consecutive order, was properly instituted in Kings County where the coal was delivered therein, even though the delivery tickets were made out in Queens County.-Id.

¶ 3. Coal dealer which used at the same yard two machines for issuing delivery tickets and on the day in question had issued one ticket bearing number A1652 and another ticket from the other machine bearing number A4521 for delivery of two quantities of coal to the same address, **held** to have violated Administrative Code § B36-37.0, subd. c, requiring delivery tickets to be serially numbered in each yard and to be used only in consecutive order, and it was immaterial that the tickets were issued serially as applied to each machine, or that the use of two or more machines in a single yard was more convenient.-Id.

CASE NOTES FROM FORMER SECTION 20-627

¶ 1. Administrative Code § B36-38.0, requiring that each load of solid fuel transported must be accompanied by delivery tickets, **held** inapplicable to a dealer who was transporting a truckload of coal from Pennsylvania to his own yard in the City and was not making a delivery to a consumer.-Marquardt v. Castoro, 68 N.Y.S. 2d 327 [1947].

CASE NOTES FROM FORMER SECTION 20-645

¶ 1. On conviction of defendants for violation of Administrative Code § B36-23.0, court was justified in imposing a more severe sentence upon the defendant who was a licensed weighmaster.-People (Weisent) v. Mishkin, 170 Misc.

889, 11 N.Y.S. 2d 77 [1939], aff'd, 281 N.Y. 765, 24 N.E. 2d [1939].

CASE NOTES FROM FORMER SECTION 20-648

¶ 1. Administrative Code § B36-59.0, requiring a certificate of origin with respect to anthracite coal brought into the City by motor vehicle from outside the State, excepting, however, the anthracite sold and delivered in the City from places located outside the City and State but within a five-mile area immediately adjoining, **held** unconstitutional, as discriminatory because it applied only to the transportation of coal into the City by motor vehicle and not to the bringing in of coal by boat, railroad or other conveyance, because it permitted the bringing in of coal from yards within five miles from the City, and because, under Administrative Code § B36-42.0, purchasers of an entire load might accept the weight on a bill of loading where the truck carried a sign marked "cargo" without the necessity of a certificate of origin. In the instant case the defendant was transporting coal from Pennsylvania to his own yard for his own purposes and was not delivering or selling it to a consumer.-Marquardt v. Castoro, 68 N.Y.S. 2d 327 [1947].

¶ 2. Administrative Code § B36-59.0, requiring a certificate of origin with respect to anthracite coal brought into the City by motor vehicle from outside the state, excepting, however, anthracite sold and delivered in the City from places located outside the City and state but within a five-mile area immediately adjoining the City boundary, **held** unconstitutional as being discriminatory and class legislation, since the ordinance applied only to anthracite coal, and only to anthracite transported by motor truck, and moreover excepted a five-mile area, which exception was capricious, arbitrary and discriminatory.-People v. Marcello, 25 N.Y.S. 2d 533 [1941].

¶ 3. Administrative Code § B36-59.0, also violated the Commerce Clause of the Federal Constitution, inasmuch as a person engaged in interstate commerce was required to expend additional moneys for mere privilege of doing interstate business. The ordinance might not be sustained on theory it was an inspection law, as the ordinance was not enacted to prevent the spread of disease, and furthermore required inspection of anthracite coal only.-Id.

¶ 4. Administrative Code § B36-61.0, providing for issuance of certificates of origin upon proof satisfactory to the Commissioner of Weights and Measures that the anthracite produced by such person was not stolen and had been legally acquired at its source, states in its practical effect, that all anthracite coal brought into the City from without the state by motor truck has been stolen, unless the driver of the truck can prove otherwise by displaying to the inspector a satisfactory certificate of origin, and thus violates the elementary principle that a person is presumed to be innocent until proved guilty, and moreover substitutes the discretion or fancy of the Commissioner for a trial by the court.-Id.

¶ 5. Section B36-59.0 violates Vehicle and Traffic Law § 10, which make the Vehicle and Traffic Law exclusively controlling as to the use of motor vehicles on the public highways, and § 54, which forbids local authorities from requiring permits or fees for use of public highways.-Id.

¶ 6. Even if, as claimed, five per cent of the total anthracite output of the State of Pennsylvania were stolen and bootlegged into New York State, the court would not be inclined to feel that the amount involved was sufficient to cause enactment of legislation of such a drastic nature as that involved in § B36-59.0.-Id.

¶ 7. In view of holding in **People v. Marcello,** 25 N.Y.S. 2d 533, that Administrative Code § B36-59.0 is unconstitutional as discriminatory, and the statement of the Director of the Bureau of Weights and Measures of the Department of Markets that he would nevertheless enforce the law so long as it remained on the books, plaintiff, who was the employer of the defendant in **People v. Marcello,** was granted a temporary order restraining the City authorities from enforcing the statute as against it provided an undertaking of $500 was furnished and proceedings were immediately brought for a final determination of the action presently before the court.-Castoro v. Schultz, 116 (78) N.Y.L.J. (10-11-46) 853, Col. 6 T.

CASE NOTES FROM FORMER SECTION 20-654

¶ 1. Administrative Code § B36-65.0, requiring drivers of motor vehicles bringing anthracite into the City from

outside the State to have the anthracite weighed at the nearest available official scales upon entering the City, **held** inapplicable to a dealer who was transporting a truckload of anthracite in a motor vehicle from Pennsylvania for delivery to his own yard in the City.-Marquardt v. Castoro, 68 N.Y.S. 2d 327 [1947].

¶ 2. Where § B36-65.0 of the Administrative Code was complied with and there was no evidence of an attempted sale of coal defendant was hauling through New York City and coal was allegedly in transit from Pennsylvania to Long Island, judgment convicting defendant of violation of § B36-29 was reversed.-People (Curry) v. Cedducci, 178 Misc. 269, 33 N.Y.S. 2d 873 [1942], rev'g, 176 Misc. 697, 28 N.Y.S. 2d 511 [1941].

CASE NOTES FROM FORMER SECTION 20-666

¶ 1. Revocation of the corporate petitioner's license as a solid fuel dealer, **held** void for failure to accord petitioner a fair and proper hearing, and because it was not held by the Commissioner of Markets or his deputy, but without authority was held by the Director of the Bureau of Weights and Measures who had conducted the pre-investigation and had prejudged the case, taking into serious consideration the testimony and evidence of an enemy of petitioner which he had collected prior to the hearing, in the absence of petitioner and without its knowledge and without it ever having had the right of confrontation or cross-examination.-New York Southern Coal Terminal Corp. v. Woolley, 35 N.Y.S. 2d 443 [1942].

FOOTNOTES

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[Footnote 99]: * Chapter heading amended L.L. 38/1991 § 1, eff. June 12, 1991, amended L.L. 37/1986 § 6.

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NYC Administrative Code 20-700

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Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-700 Unfair trade practices prohibited.

No person shall engage in any deceptive or unconscionable trade practice in the sale, lease, rental or loan or in the offering for sale, lease, rental, or loan of any consumer goods or services, or in the collection of consumer debts.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-1.0 added LL 83/1969 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Commissioner has power to issue subpoenas in connection with an investigation of a deceptive trade practice. Meyerson v. Marandola, 166 (37) N.Y.L.J. (8-23-71).

¶ 2. A distributor who used the name Webster's Dictionary Company to sell a "Webster's Dictionary" can be enjoined even though it can not be shown that customers were actually deceived by statements that dictionary was authentic and was sold at lower than list price because of financial troubles.-Guggenheimer v. Ginzburg, 43 N.Y. 2d

268 [1977], reversing, 53 App. Div. 2d 513 [1976].

¶ 3. Regulation of the Department of Consumer Affairs which requires disclosure of the manufacturer's suggested retail price by retailers when the selling price exceeds the manufacturer's suggested price bears a rational relationship to the objective of the Consumer Protection Law-to prohibit deceptive and unconscionable trade practices and thus does not violate the equal protection clause of the Fourteenth Amendment.-City of New York v. Toby's Electronics, 110 Misc. 2d 848 [1981].

¶ 4. Department of Consumer Affairs could properly promulgate and enforce a regulation with accompanying civil penalties prohibiting the retail sale of gasoline at rates exceeding the maximum prices established by the U.S. Department of Energy, pursuant to the Emergency Petroleum Allocation Act.-City of N.Y. Dept of Consumer Affairs v. Coney Island Service Station, 113 Misc. 2d 1012 [1982].

CASE NOTES

¶ 1. Defendant, an attorney, was properly enjoined from continuing advertisements in various newspapers which stated "Divorce, low fee, possible 10 days, Green Card" finding that a showing had been made that the advertisement was deceptive within the NY City Consumer Protection Law (See Ad Code § 20-700 et seq). Aponte v. Raychuck, 160 AD2d 636.

¶ 2. An employer fee paid employment agency may not be compelled to disclose in classified ads their names or that they are employment agencies. This is covered by State law not the Consumer Protection Law, §20-700 et seq. Consultants Assn. v. Green, 153 Misc. 2d 156 [1992].

¶ 3. The offering of rental housing is a legitimate area of interest for consumer protection against deceptive advertising and misrepresentation. A residential lease is a purchase of services from the landlord. An apartment dweller is viewed as a consumer of housing services. The question in this case was whether the broker knew or should have known that the apartments it was renting were actually hotel rooms in violation of NYC Consumer Protection Law. 23 Realty Associates v. Tiegman, 213 AD2d 306 [1995].

¶ 4. The fact that the legislature has delegated to the Appellate Division the authority to regulate the conduct of attorneys does not preclude the City from proscribing deceptive advertising by attorneys. Aponte v. Raychuk, 160 A.D.2d 636, 559 N.Y.S.2d 255 (1st Dept. 1990).

¶ 5. Although the sale of a home does not involve consumer goods or services within the meaning of the statute, the statute can be used against a company that sold not only homes but also a package of promised repairs which allegedly were not completed or were poorly done. Polonetsky v. Better Homes Depot, 97 N.Y.2d 46, 735 N.Y.S.2d 479 (2001).

¶ 6. The City statute provisions relating to used car dealers are not pre-empted by state law. While Vehicle and Traffic Law § 415 requires that used car dealers be registered, the state has not assumed full regulatory responsibility for their licensing. City Line Auto Mall, Inc. v. Mintz, 42 AD3d 407, 840 N.Y.S.2d 783 (1st Dept. 2007).

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Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-701 Definitions.

a. Deceptive trade practice. Any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind made in connection with the sale, lease, rental or loan or in connection with the offering for sale, lease, rental, or loan of consumer goods or services, or in the extension of consumer credit or in the collection of consumer debts, which has the capacity, tendency or effect of deceiving or misleading consumers. Deceptive trade practices include but are not limited to: (1) representations that goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have; the supplier has a sponsorship, approval, status, affiliation, or connection that he or she does not have; goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, or secondhand; or, goods or services are of a particular standard, quality, grade, style or model, if they are of another; (2) the use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact or failure to state a material fact if such use deceives or tends to deceive; (3) disparaging the goods, services, or business of another by false or misleading representations of material facts; (4) offering goods or services with intent not to sell them as offered; (5) offering goods or services with intent not to supply reasonable expectable public demand, unless the offer discloses to limitation of quantity; and (6) making false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions, or price in comparison to prices of competitors or one's own price at a past or future time; (7) stating that a consumer transaction involves consumer rights, remedies or obligations that it does not involve; (8) stating that services, replacements or repairs are needed if they are not; and (9) falsely stating the reasons for offering or supplying goods or services at scale

discount prices.

b. Unconscionable trade practice. Any act or practice in connection with the sale, lease, rental or loan or in connection with the offering for sale, lease, rental or loan of any consumer goods or services, or in the extension of consumer credit, or in the collection of consumer debts which unfairly takes advantage of the lack of knowledge, ability, experience or capacity of a consumer; or results in a gross disparity between the value received by a consumer and the price paid, to the consumer's detriment; provided that no act or practice shall be deemed unconscionable under this subchapter unless declared unconscionable and described with reasonable particularity in a local law, or in a rule or regulation promulgated by the commissioner. In promulgating such rules and regulations the commissioner shall consider among other factors: (1) knowledge by merchants engaging in the act or practice of the inability of consumers to receive properly anticipated benefits from the goods or services involved; (2) gross disparity between the price of goods or services and their value measured by the price at which similar goods or services are readily obtained by other consumers; (3) the fact that the acts or practices may enable merchants to take advantage of the inability of consumers reasonably to protect their interests by reason of physical or mental infirmities, illiteracy or inability to understand the language of the agreement, ignorance or lack of education, or similar factors; (4) the degree to which terms of the transaction require consumers to waive legal rights; (5) the degree to which terms of the transaction require consumers to jeopardize money or property beyond the money or property immediately at issue in the transaction; and (6) definitions of unconscionability in statutes, regulations, rulings and decisions of legislative, or judicial bodies in this state or elsewhere.

c. Consumer goods, services, credit and debts. As used in section 20-700 of this subchapter and subdivisions a and b of this section, goods, services, credit and debts which are primarily for personal, household or family purposes.

d. Consumer. A purchaser or lessee or prospective purchaser or lessee of the consumer goods or services or consumer credit, including a co-obligor or surety.

e. Merchant. A seller, lessor, or creditor or any other person who makes available either directly or indirectly, goods, services or credit, to consumers. "Merchant" shall include manufacturers, wholesalers and others who are responsible for any act or practice prohibited by this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-2.0 added LL 83/1969 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Complaint for a temporary injunction prohibiting defendants from acting as an employment agency without a license stated a cause of action when it alleged that defendant was really an employment agency engaged in business without a license, that its newspaper advertisements were misleading in that they stated that no fee would be charged when in fact $125 was charged for photographs and that they falsely claimed that their clients had an excellent chance to receive employment and where defendant had no funds to reimburse its clients if unfair trade practices were proved.-Grant v. Mother Goose Personal Management Corp., 165 (115) N.Y.L.J. (6-16-71) 19, Col. 3 F.

CASE NOTES

¶ 1. The Department of Consumer Affairs has jurisdiction, under this section, to seek an injunction prohibiting deceptive advertising by an attorney. Aponte v. Raychuk, 140 Misc.2d 864, 531 N.Y.S.2d 689 (Sup.Ct. New York Co. 1988), aff'd 160 A.D.2d 636, 559 N.Y.S.2d 255.

¶ 2. See City Line Auto Mall, Inc. v. Mintz, 42 AD3d 407, 840 N.Y.S.2d 783 (1st Dept. 2007), discussed in note 6 of Admin. Code § 20-700.

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-702 Regulations.

The commissioner may adopt such rules and regulations as may be necessary to effectuate the purposes of this subchapter, including regulations defining specific deceptive or unconscionable trade practices. Such rules and regulations may supplement but shall not be inconsistent with the rules, regulations and decisions of the federal trade commission and the federal courts in interpreting the provisions of section five (a) (1), the federal trade commission act 15 U.S.C. § 45 (a) (1), or the decisions of the courts interpreting section three hundred fifty of the general business law and section 2-302 of the uniform commercial code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-3.0 added LL 83/1969 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Regulation of Commissioner making it "an unconscionable trade practice in the collection of a debt arising from the sale of consumer goods or services or the extension of consumer credit, for a creditor or alleged creditor or

employee or agent thereof (including a collection agency or collection attorney to whom an account has been referred) to communicate or threaten to communicate with an alleged debtor's employer prior to obtaining a final judgment against the debtor, except as specifically permitted by statute" was not unconstitutional as a violation of the right to free speech. Commercial Lawyers Conference v. Grant, 65 Misc. 2d 897, 318 N.Y.S. 2d 966 [1971].

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NYC Administrative Code 20-703

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-703 Enforcement.

a. The violation of any provision of this subchapter or of any rule or regulation promulgated thereunder, shall be punishable upon proof thereof, by the payment of a civil penalty in the sum of fifty dollars to three hundred and fifty dollars, to be recovered in a civil action.

b. The knowing violation of any provision of this subchapter or of any rule or regulation promulgated thereunder, shall be punishable upon conviction thereof, by the payment of a civil penalty in the sum of five hundred dollars, or as a violation for which a fine in the sum of five hundred dollars shall be imposed, or both.

c. Upon a finding by the commissioner of repeated, multiple or persistent violation of any provision of this subchapter or of any rule or regulation promulgated thereunder, the city may, except as hereinafter provided, bring an action to compel the defendant or defendants in such action to pay in court all monies, property or other things, or proceeds thereof, received as a result of such violations; to direct that the amount of money or the property or other things recovered be paid into an account established pursuant to section two thousand six hundred one of the civil practice law and rules from which shall be paid over to any and all persons who purchased the goods or services during the period of violation such sum as was paid by them in a transaction involving the prohibited acts or practices, plus any costs incurred by such claimants in making and pursuing their complaints; provided that if such claims exceed the sum recovered into the account, the awards to consumers shall be prorated according to the value of each claim proved; to direct the defendant or defendants, upon conviction, to pay to the city the costs, and disbursements of the action and pay

to the city for the use of the commissioner the costs of his or her investigation leading to the judgment; or if not recovered from defendants, such costs are to be deducted by the city from the grand recovery before distribution to the consumers; and to direct that any money, property, or other things in the account and unclaimed by any persons with such claims within one year from creation of the account, be paid to the city, to be used by the commissioner for further consumer law enforcement activities. Consumers making claims against an account established pursuant to this subdivision shall prove their claims to the commissioner in a manner and subject to procedures established by the commissioner for that purpose. The procedures established in each case for proving claims shall not be employed until approved by the court, which shall also establish by order the minimum means by which the commissioner shall notify potential claimants of the creation of the account. Restitution pursuant to a judgment in an action under this subdivision shall bar, pro tanto, the recovery of any damages in any other action against the same defendant or defendants on account of the same acts or practices which were the basis for such judgment, up to the time of the judgment, by any person to whom such restitution is made. Restitution under this subdivision shall not apply to transactions entered into more than five years prior to commencement of an action by the commissioner. Before instituting an action under this subdivision, the commissioner shall give the prospective defendant written notice of the possible action, and an opportunity to demonstrate in writing within five days, that no repeated, multiple, or persistent violations have occurred.

d. Whenever any person has engaged in any acts or practices which constitute violations of any provision of this subchapter or of any rule or regulation promulgated thereunder, the city may make application to the supreme court for an order enjoining such acts or practices and for an order granting a temporary or permanent injunction, restraining order, or other order enjoining such acts or practices.

e. To establish a cause of action under this section it need not be shown that consumers are being or were actually injured.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-4.0 added LL 83/1969 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Preliminary injunction restraining defendants who sold vacuum cleaners through door-to-door salesmen from visiting prospective customers homes without disclosing at the outset that they were selling vacuum cleaners denied where it was not established that injury results from such practice. Grant v. Compact Electra Corp., 165 (60) N.Y.L.J. (3-30-71) 18, Col. 6 F.

¶ 2. Temporary injunction prohibiting defendants, charged with an unlawful scheme aimed at forcing customers to pay high television repair bills for work which has not been performed, from engaging in certain business activities was denied where defendants denied these allegations and thereby created issues of fact to be resolved at trial even though defendants admitted to false advertising in the telephone directory. Meyerson v. Phillips Television, Inc., 165 (92) N.Y.L.J. (5-13-71) 2, Col. 6 T.

¶ 3. Action for a permanent injunction to enjoin unfair and deceptive trade practices could not be dismissed on ground that complaint was defective for failure to allege that there was no adequate remedy at law since the law provides several remedies for violation of its provisions without making any one exclusive and such an allegation would frustrate the purpose of the statute which permits the plaintiff to choose an appropriate remedy.-Id.

CASE NOTES

¶ 1. Advertising by attorneys is subject to restraint per § 20-703 restricting false or misleading advertisements by including attorney services within the meaning of trade practices the department of consumer affairs may regulate. Injunction issued regarding the attorney's ability to secure a divorce within 10 days. Aponte v. Raychuk, 140 Misc. 2d 864 [1988].

¶ 2. A used car salesman was fined on two occasions for deceptive advertising including failure to disclose license number, unauthorized "construction sale", nondisclosure of limitations in financing and use of undersized type. A sweeping reduction in civil penalties, essentially treating all of the separate violations charged on each occasion as a single offense, was error. Respondent could lawfully impose a fine of up to $500 for each of 15 violations in the second case. To deny respondent authority to penalize each specification individually would tend to trivialize a violation to the level of an acceptable cost of doing business. Van Cortlandt Park Dodge, Inc. v. Consumer Affs. Dep't, 178 AD2d 234, 577 N.Y.S.2d 274 (1st Dept. 1991).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-704

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-704 Settlements.

a. In lieu of instituting or continuing an action pursuant to this subchapter, the commissioner may accept written assurance of discontinuance of any act or practice in violation of this subchapter from the person or persons who have engaged in such acts or practices. Such assurance may include a stipulation for voluntary payment by the violator of the costs of investigation by the commissioner and may also include a stipulation for the restitution by the violator to consumers, of money, property or other things received from them in connection with a violation of this subchapter, including money necessarily expended in the course of making and pursuing a complaint to the commissioner. All settlements shall be made a matter of public record. If such stipulation applies to consumers who have been affected by the violator's practices but have not yet complained to the commissioner, the assurance must be approved by the court, which shall direct the minimum means by which potential claimants shall be notified of the stipulation. A consumer need not accept restitution pursuant to such a stipulation; his or her acceptance shall bar recovery of any other damages in any action by him or her against the defendant or defendants on account of the same acts or practices.

b. Violation of an assurance entered into pursuant to this section shall be treated as a violation of this subchapter and shall be subject to all the penalties provided therefor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-5.0 added LL 83/1969 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-705

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-705 Persons excluded from this subchapter.

Nothing in this subchapter shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine, or other form of printed advertising, who broadcasts, publishes, or prints such advertisement, except insofar as said station or publisher or printer is guilty of deception on the sale or offering for sale of its own services. This subchapter shall not apply to advertising agencies, provided they are acting on information provided by their clients.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-6.0 added LL 83/1969 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-706

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 1 CONSUMER PROTECTION LAW

§ 20-706 Permitted practices.

The provisions of this subchapter shall be construed so as to supplement the rules, regulations, and decisions of the federal trade commission and the courts interpreting 15 U.S.C. Sec 45 (a) (1), but the provisions of this subchapter shall in no instance be interpreted in a manner inconsistent with the rules, regulations and decisions of the federal trade commission and the courts interpreting 15 U.S.C. § 45 (a) (1).

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 2203d-7.0 added LL 83/1969 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-707

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-707 Definitions.

(a) "Consumer commodity" shall be defined as any article, good, merchandise, product or commodity of any kind or class produced, distributed or offered for retail sale for consumption by individuals, or for personal, household or family purposes. For the purposes of this subchapter, drugs, medicines and cosmetics shall not be considered consumer commodities.

(b) "Price per measure" shall be defined as the retail price of a consumer commodity expressed in terms of the retail price of such commodity per such unit of weight, standard measure or standard number of units as the commissioner shall designate by regulation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-1.0 added LL 14/1971 § 1

Sub a amended LL 30/1979 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-708

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-708 Display of total selling price by tag or sign.

All consumer commodities, sold, exposed for sale or offered for sale at retail except those items subject to section 20-708.1 of this code, shall have conspicuously displayed, at the point of exposure or offering for sale, the total selling price exclusive of tax by means of (a) a stamp, tag or label attached to the item or (b) by a sign at the point of display which indicates the item to which the price refers, provided that this information is plainly visible at the point of display for sale of the items so indicated. This section shall not apply to consumer commodities displayed in the window of the seller.

HISTORICAL NOTE

Section amended L.L. 84/1991 § 2, eff. Oct. 19, 1991.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-2.0 added LL 14/1971 § 1

Amended LL 30/1979 § 2

CASE NOTES

¶ 1. See City Line Auto Mall, Inc. v. Mintz, 42 AD3d 407, 840 N.Y.S.2d 783 (1st Dept. 2007), discussed in note 6 of Admin. Code § 20-700.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-708.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-708.1 Item pricing.

a. Definitions. The following terms shall have the following meanings for the purpose of this section:

1. "Stock keeping unit", known in the industry as "SKU", shall mean each group of items offered for sale of the same brand name, quantity of contents, retail price, and variety within the following categories:

(a) Food, including all material, solid, liquid or mixed, whether simple or compound, used or intended for consumption by human beings or domestic animals normally kept as household pets and all substances or ingredients to be added thereto for any purpose;

(b) Napkins, facial tissues, toilet tissues, paper towelling and any disposable wrapping or container for the storage, handling, serving, or disposal of food;

(c) Detergents, soaps and other cleansing agents; and

(d) Non-prescription drugs, feminine hygiene products and health and beauty aids.

2. "Stock keeping item" shall mean each individual item of a stock keeping unit offered for sale. This shall include two or more pieces packaged for sale together.

3. "Retail store" shall mean a store engaged in selling stock keeping units at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members. A retail store shall not include any store which:

(a) Has as its only full-time employee the owner thereof, or the parent, spouse, domestic partner or child of the owner, and in addition thereto not more than two full-time employees; or

(b) Had annual gross sales of stock keeping items in the previous calendar year of less than two million dollars, unless the retail store is part of a network of subsidiaries, affiliates or other member stores, under direct or indirect common control, which, as a group, had annual gross sales of stock keeping items in the previous calendar year of two million dollars or more; or

(c) Engages primarily in the sale of food for consumption on the premises or in a specialty trade which the commissioner determines, by rule, would be inappropriate for item pricing.

4. "Item price" shall mean the tag, stamp or mark affixed to a stock keeping item which sets forth, in arabic numerals, the retail price thereof.

5. "Advertised price" shall mean the price of a stock keeping unit which a retail store has caused to be disseminated by means of promotional methods such as an in-store sign, or newspaper, circular, television or radio advertising.

6. "Shelf price" shall mean the tag or sign placed at each point of display of a stock keeping unit, which clearly sets forth the retail price of the stock keeping items within that stock keeping unit.

7. "Computer-assisted checkout system" shall mean any electronic device, computer system or machine which indicates the selling price of a stock keeping item by interpreting its universal product code, or an in-house product code, or by use of its price look-up function.

8. "Price look-up function" shall mean the capability of any checkout system to determine the retail price of a stock keeping item by way of the manual entry into the system of a code number assigned to that particular stock keeping unit by the retail store or by way of the checkout operator's consultation of a file maintained at the point of sale.

9. "Inspector" shall mean the commissioner or his or her designee.

b. Item pricing required. Except as provided in subdivision c of this section, every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store, a stock keeping unit, shall disclose to the consumer the item price of each stock keeping item, by causing the item price to be conspicuously, clearly and plainly marked, stamped, tagged or affixed thereto.

c. Certain items exempted. The following stock keeping items need not be item priced as provided in subdivision b of this section provided that a shelf price and a price look-up function are maintained for such stock keeping items:

1. Milk.

2. Stock keeping items which are under three cubic inches in size, and weigh less than three ounces, and are priced under one dollar.

3. Eggs.

4. Fresh produce not packaged for final retail sale.

5. Products sold through a vending machine.

6. Food sold for consumption on the premises.

7. Snack foods such as cakes, gum, candies, chips and nuts offered for sale in single packages and weighing five ounces or less.

8. Cigarettes, cigars, tobacco and tobacco products.

9. Food offered for sale in bulk.

10. Frozen juice.

11. Ice cream.

12. Frozen foods packaged for final retail sale in plastic bags.

13. Stock keeping items on sale for one week or less, where such stock keeping items are not otherwise item priced, are located in a segregated display at the end of an aisle, and the sale period, the name of the product and the advertised price are clearly and conspicuously posted on a sign at the point of display. Failure to display this information shall be deemed a deceptive practice under section 20-701 of this code.

14. Baby food packaged in jars.

d. Scanner accuracy. In a retail store with a laser scanning or other computer-assisted checkout system, an inspector shall be permitted to compare the disclosed retail price of any one stock keeping item within any stock keeping unit sold in the retail store, whether or not exempt under subdivision c of this section, not to exceed five hundred stock keeping items at any one inspection, with the programmed computer price. The retail store shall provide such access to the computer as is necessary for the inspector to make the determination. The inspector shall also make note of undercharges on the inspection report. In the event that the programmed computer price exceeds the lowest price a retail store is permitted to charge for a stock keeping item under subdivision e of this section, this shall be deemed a deceptive practice under section 20-701 of this code.

e. Price accuracy. No retail store shall charge a retail price for any stock keeping item, whether or not exempt under subdivision c of this section, which exceeds the lower of any item, shelf, sale or advertised price of such stock keeping item.

f. Enforcement, penalties. 1. Upon the request of an inspector, the retail store representatives shall afford the inspector access to the test mode of the checkout system in use at that retail store or to a comparable function of such system and to the retail price information contained in a price look-up function. No more than one inspection shall be conducted in any twenty-four hour period.

2. In addition to the enforcement powers prescribed in sections 20-703 and 20-704 of this code, the commissioner may, upon due notice, hold hearings to determine whether violations of the provisions of this section have occurred. Such notice shall contain a concise statement of the facts constituting the alleged violation and shall set forth the date, time and place of the hearing. Upon a finding of a violation of the provisions of this section, the commissioner shall be authorized to impose a civil penalty as follows:

(a) upon a first inspection, up to twenty-five dollars for the first twenty violations and up to fifty dollars for the twenty-first and successive violations, total violations not to exceed two thousand dollars.

(b) upon a second or subsequent inspection within a two week period, up to fifty dollars for the first twenty continued violations, and up to one hundred dollars for the twenty-first and successive continued violations, total

violations issued not to exceed eight thousand dollars.

3. Each failure to comply with subdivision b of this section with respect to any one stock keeping unit shall constitute a separate violation, provided, however, that no violation shall be found where less than five stock keeping items of a particular stock keeping unit lack clearly readable item prices. Following an initial inspection, each inspection that finds a continuing violation with respect to a particular stock keeping unit cited within the previous fourteen days shall constitute a separate continued violation.

g. Rules. The commissioner may promulgate such rules as he or she may deem necessary or appropriate to effectuate the purposes of this section.

HISTORICAL NOTE

Section added L.L. 84/1991 § 3, eff. Oct. 19, 1991.

Subd. a par 3 subpar (a) amended L.L. 27/1998 § 23, eff. Sept. 5, 1998.

Subd. f par 2 amended L.L. 70/2005 § 1, eff. Sept. 18, 2005, provided

that the commissioner may take any actions necessary prior to such

effective date for the implementation of this local law including, but

not limited to, the adoption of any necessary rules.

NOTE

Provisions of L.L. 84/1991 § 1.

Section 1. Legislative findings and intent. The Council finds that the failure of the state legislature to extend the state item pricing law has left consumers without assurance that they will be able to easily ascertain prices of basic consumer necessities such as groceries, paper good, detergents, and health and beauty aids. Item pricing is uniquely useful in comparison shopping within a store, in keeping track of the total cost of items being purchased, and in discovering erroneous charges at the cash register. The Council finds, therefore, that the city's law concerning truth in pricing must be amended to add a new section on item pricing.

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NYC Administrative Code 20-709

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-709 Display of price per measure.

All consumer commodities designated by the commissioner in accordance with subdivision (a) of section 20-710 hereof exposed for sale or offered for sale shall be plainly marked by a stamp, tag, label or sign at the point of display with the appropriate price per measure; provided however, that the provisions of this section shall not apply to any food store having had annual gross sales in the previous tax year of less than two hundred fifty thousand dollars, ($250,000) unless it is a part of a network of subsidiaries, affiliates, or other member stores, under direct or indirect common control, which, as a group, had annual gross sales in the previous tax year of two hundred fifty thousand dollars ($250,000) or more.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-3.0 added LL 14/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-710

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-710 Regulations.

(a) The commissioner after public hearings shall promulgate regulations designating those consumer commodities which shall come within the scope of section 20-709 of this subchapter whenever the commissioner shall find that, because of the nature, form, mode of packaging or other reason, such price display for that commodity shall be necessary and appropriate to provide adequate information to the consumer.

(b) The commissioner shall promulgate regulations exempting any class or classes of retail establishments from the requirements of section 20-709 hereof or modifying its application with respect to any class or classes of retail establishments to the extent that and under such conditions as are consistent with the policy of this subchapter whenever the commissioner shall find that, because of the nature of such class or classes of retail establishments, compliance with section 20-709 hereof is unreasonably burdensome or unnecessary for adequate protection of consumers.

(c) The commissioner shall promulgate such other regulations as shall be necessary in his or her discretion to effectuate the purposes of this subchapter, including but not limited to, requirements as to the manner of display of unit price information.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-4.0 added LL 14/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-711

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 2 TRUTH-IN-PRICING LAW

§ 20-711 Penalties.

Any person who shall violate the provisions of section 20-708 or section 20-709 hereof or rules promulgated pursuant to this subchapter, other than the provisions of section 20-708.1 or rules promulgated under such section, shall pay a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than two hundred fifty dollars for each violation. For the purposes of this section, each group of identical consumer commodities for which on any single day the total selling price or price per measure is not displayed in accordance with section 20-708 or section 20-709 or rules promulgated pursuant to this subchapter, other than the provisions of section 20-708.1 or rules promulgated under such section, shall be considered a single violation.

HISTORICAL NOTE

Section amended L.L. 84/1991 § 4, eff. Oct. 19, 1991.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-5.0 added LL 14/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-712

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 3 POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES*126

§ 20-712 Definitions.

(a) "Current selling price" means the price to be paid by the purchaser to the pharmacy for a listed drug.

(b) "Prescription drugs" means any drug which may be dispensed only with a physician's prescription.

(c) "Pharmacy" means any retail outlet selling prescription drugs within the city.

(d) "Emergency contraception" means one or more prescription drugs, used separately or in combination, to be administered to or self-administered by the patient in a dosage and manner for preventing pregnancy when used after intercourse, found safe and effective for that use by the United States food and drug administration, and dispensed for that purpose in accordance with professional standards of practice.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (d) added L.L. 25/2003 § 2, eff. June 8, 2003. [See Subchapter footnote]

DERIVATION

Formerly § B64-10.0 added LL 14/1973 § 1

FOOTNOTES

126

[Footnote 126]: * Subchapter heading amended L.L. 25/2003 § 1, eff. June 8, 2003. Note this L.L. 25/2003 was vetoed Mar. 21, 2003 overridden Apr. 9, 2003 and effective June 8, 2003. Note provisions of L.L. 25/2003:

§ 5. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 6. Effective date. This local law shall take effect 60 days after its enactment.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-713

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 3 POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES*126

§ 20-713 Display of prescription drug prices.

Every pharmacy must post, at each counter over which prescription drugs are sold, a list conspicuously displaying the current selling price of the drugs designated on a form prescribed for that purpose by the department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-11.0 added LL 14/1973 § 1

FOOTNOTES

126

[Footnote 126]: * Subchapter heading amended L.L. 25/2003 § 1, eff. June 8, 2003. Note this L.L. 25/2003 was vetoed Mar. 21, 2003 overridden Apr. 9, 2003 and effective June 8, 2003. Note provisions of L.L.

25/2003:

§ 5. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 6. Effective date. This local law shall take effect 60 days after its enactment.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-713.1

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 3 POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES*126

§ 20-713.1 Display of information relating to emergency contraception.

Any pharmacy that does not sell emergency contraception must conspicuously post, at or adjacent to each counter over which prescription drugs are sold, indicating in large type that emergency contraception is not sold at such pharmacy.

HISTORICAL NOTE

Section added L.L. 25/2003 § 3, eff. June 8, 2003. [See Subchapter footnote]

FOOTNOTES

126

[Footnote 126]: * Subchapter heading amended L.L. 25/2003 § 1, eff. June 8, 2003. Note this L.L. 25/2003 was vetoed Mar. 21, 2003 overridden Apr. 9, 2003 and effective June 8, 2003. Note provisions of L.L. 25/2003:

§ 5. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 6. Effective date. This local law shall take effect 60 days after its enactment.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-714

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 3 POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES*126

§ 20-714 Regulations.

(a) The commissioner shall promulgate regulations designating those prescription drugs which, because of the frequency with which they are prescribed, shall be posted pursuant to section 20-713. The commissioner may exempt from such regulation such drugs to the extent that, and under such conditions as are consistent with the policy of this subchapter whenever the commissioner shall find that, because of the nature of such prescription drugs, compliance with section 20-713 is unreasonably burdensome or unnecessary for adequate protection of consumers.

(b) The commissioner shall promulgate such other regulations as shall be necessary to effectuate the purposes of this subchapter, including, but not limited to, requirements as to the manner of display of prescription drug prices.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-12.0 added LL 14/1973 § 1

FOOTNOTES

126

[Footnote 126]: * Subchapter heading amended L.L. 25/2003 § 1, eff. June 8, 2003. Note this L.L. 25/2003 was vetoed Mar. 21, 2003 overridden Apr. 9, 2003 and effective June 8, 2003. Note provisions of L.L. 25/2003:

§ 5. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 6. Effective date. This local law shall take effect 60 days after its enactment.

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Administrative Code of the City of New York

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NYC Administrative Code 20-715

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 3 POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES*126

§ 20-715 Penalties.

Any person who shall violate the provisions of section 20-713, section 20-713.1, or regulations promulgated pursuant to this subchapter shall pay a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a penalty of not less than five hundred dollars nor more than seven hundred fifty dollars for each such violation and shall, upon conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a fine of not less than five hundred dollars nor more than seven hundred fifty dollars for each such violation. For the purposes of this section, if on any single day the current selling price list is not displayed in accordance with section 20.713 or regulations promulgated pursuant to this subchapter, or the required signage is not displayed in accordance with section 20.713.1 or regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

HISTORICAL NOTE

Section amended L.L. 25/2003 § 4, eff. June 8, 2003. [See Subchapter footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-13.0 added LL 14/1973 § 1

FOOTNOTES

126

[Footnote 126]: * Subchapter heading amended L.L. 25/2003 § 1, eff. June 8, 2003. Note this L.L. 25/2003 was vetoed Mar. 21, 2003 overridden Apr. 9, 2003 and effective June 8, 2003. Note provisions of L.L. 25/2003:

§ 5. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect.

§ 6. Effective date. This local law shall take effect 60 days after its enactment.

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NYC Administrative Code 20-716

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 4 INFORMATION WITH RESPECT TO ROOM AIR CONDITIONERS*108

§ 20-716 Legislative findings.

The council hereby finds that the demand for electricity in the city has been steadily growing; that the supply of electricity has on frequent occasions been inadequate fully to meet the demand therefor; that the distribution system of the public utility company serving most of the city has frequently been disrupted by heavy loads; that major brownouts and blackouts in various sections of the city have frequently resulted from such conditions, particularly in the summer; that there is no present basis for concluding that such conditions will not continue for the foreseeable future; that fifty percent of the annual summer growth in demand for electricity in the city is due to air conditioning, that forty percent of the peak summer demand for electricity in the city is attributable to air conditioning; that room air conditioners use a significant part of the electricity used for air conditioning in the city; that the amount of electricity used by room air conditioners of comparable cooling capacity varies widely; that most sellers of room air conditioners do not presently advertise, display or otherwise provide prospective purchasers information as to the amount or cost of electricity required to operate the various models of room air conditioners; that such information, if provided, would lead consumers to purchase more efficient models; that the growth in demand for electricity in the city, particularly in summer months, would thereby be slowed and there would be an amelioration of some of the conditions which lead to brownouts and blackouts.

The council also finds that an adequate supply of electricity is vital to the health, safety and welfare of all persons in the city.

Accordingly, the council further finds that, in order to conserve electricity, there is a need to provide prospective purchasers of room air conditioners with information with respect to the efficiency and cost of operation of such units.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-20.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-10.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-717

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 4 INFORMATION WITH RESPECT TO ROOM AIR CONDITIONERS*108

§ 20-717 Definitions.

(a) "Room air conditioner" shall be defined as any electrical appliance which has a compressor, a condenser, an evaporator and a fan to cool and dehumidify the surrounding air and which is capable in ordinary usage of being mounted in a window or through a wall.

(b) "Cooling capacity rating" shall be defined as the quantity of heat in British thermal units which a room air conditioner is capable of removing in one hour.

(c) "Wattage rating" shall be defined as the number of watts of electricity necessary to obtain the cooling capacity rating of a room air conditioner.

(d) "Person" shall be defined as any individual, firm, company, partnership, corporation, association or other organization who is ordinarily engaged in the business of selling or offering for sale room air conditioners.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-21.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-11.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-718

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 4 INFORMATION WITH RESPECT TO ROOM AIR CONDITIONERS*108

§ 20-718 Display of information.

Any person selling, offering for sale or displaying for sale any room air conditioner shall set forth by a stamp, tab, label or sign at the point of display the model number, cooling capacity rating, wattage rating and estimated yearly cost of electricity necessary to operate such room air conditioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-22.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-12.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-719

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 4 INFORMATION WITH RESPECT TO ROOM AIR CONDITIONERS*108

§ 20-719 Furnishing information.

Upon request, any person selling or offering for sale any room air conditioner shall furnish to anyone who inquires about such room air conditioner information as to the model number, cooling capacity rating, wattage rating and estimated yearly cost of electricity necessary to operate such room air conditioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-23.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-13.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

Administrative Code of the City of New York

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NYC Administrative Code 20-720

Administrative Code of the City of New York

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§ 20-720 Advertising.

Any person who advertises a room air conditioner for sale in the city shall include in any advertisement therefor the model number, cooling capacity rating, wattage rating and estimated yearly cost of electricity necessary to operate such room air conditioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-24.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-14.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

Administrative Code of the City of New York

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NYC Administrative Code 20-721

Administrative Code of the City of New York

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§ 20-721 Regulations.

(a) The commissioner shall adopt regulations setting forth procedures for determining the cooling capacity rating, wattage rating and estimated yearly cost of electricity necessary to operate room air conditioners.

(b) In determining procedures for estimating the yearly cost of electricity necessary to operate room air conditioners, the commissioner may use such published electric rate or rates, hours of operation, and average thereof as he or she deems reasonable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 59/1996 § 83, eff. Aug. 8, 1996

DERIVATION

Formerly § B64-25.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-15.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

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NYC Administrative Code 20-722

Administrative Code of the City of New York

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§ 20-722 Penalties.

Any person or agent or employee thereof who shall violate any provision of this subchapter or of the regulations promulgated pursuant thereto shall be subject to a civil penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for each day in which a violation occurs.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-26.0 added LL 21/1973 § 1

Renumbered LL 13/1981 § 1 and LL 14/1981 § 2

(formerly § B64-16.0)

FOOTNOTES

108

[Footnote 108]: * Added LL 21/1973 § 1, renumbered LL 13/1981 § 1 and LL 14/1981 § 1

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NYC Administrative Code 20-723

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§ 20-723 Representations in advertising.

No person, firm, corporation or association, or agent or employee thereof, doing business in New York city, who with intent to sell or in any way dispose of merchandise to the public through the media of a newspaper, magazine, circular, pamphlet, catalogue, store display, letter or handbill shall advertise, state, set forth, print, publish or cause directly or indirectly or permit directly or indirectly, so to be done in any of the aforesaid media, any of the following or anything approximating any of the following:

(a) That the merchandise offered as aforesaid is being offered at "wholesale price" or at "manufacturers' cost" or "less than cost" or any similar language, unless such representations are true in fact; nor shall any such person, firm or corporation or association, or agent or employee thereof, doing business in New York city, offer for sale any product at a price purported to be reduced from what is a fictitious "list" or "selling" or "retailer's suggested" price, or at a purported reduction in any such price when such purported reduction is in fact fictitious.

(b) That the merchandise offered as aforesaid is being offered on the basis of comparative prices or percentage savings, or similar or analogous claims by the use of such terms as "comparable value" or "comparable retail value," without denoting, defining or describing the standard of comparison.

(c) That the merchandise offered as aforesaid is being offered as "made to sell for", or being "worth" or "valued at," a certain price greater or more than the price sought, or by the use of similar or analogous statements unless such

claim or representation is true in fact.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-115.1 added LL 19/1968 § 1

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NYC Administrative Code 20-723.1

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§ 20-723.1 Advertising Disclosure Requirements for Lenders Promoting Payday Loan Services.

a. Definitions. For purposes of this section:

(1) "Payday loan", also known as, among other terms, "deferred deposit advances," "cash on demand" or "cash advance," shall mean any transaction in which funds are provided to a consumer for a limited time period in exchange for (i) a consumer's personal check or share draft, in the amount of the funds provided to the consumer plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or (ii) a consumer's authorization to debit the consumer's transaction account, in the amount of the funds provided to the consumer plus a fee, where such account will be debited on or after a designated future date.

(2) "Unit of advertising space" shall mean any real property, space, facility or instrumentality, or any portion thereof, owned or operated by the city of New York, or which is located or operates on real property owned or operated by the city of New York, and which is the subject of the same contract, lease, rental agreement, franchise, revocable consent, concession or other similar written agreement with the city of New York which allows the placement or display of advertisements, but not including any real property, space or facility leased from the city of New York for a term of thirty years or more during the entire term of the lease or any real property, space or facility leased from or to the industrial development agency.

b. Any lender, bank or other financial institution that provides payday loan or grant services and which promotes

its payday loan or grant services, however described or designated, via a unit or units of advertising space, and which, because of the application of other state or federal law, is exempt from the fee limitations of New York state, and charge interest, fees and other charges greater than those authorized in New York state, shall comply with the following disclosure requirements with respect to a unit or units of advertising space:

Advertisements shall disclose, in clear and prominent letter type, in a print color that contrasts with the background against which it appears, of at least a 20-point type size:

i. the maximum annual percentage rates (APR) of the institution's payday loans, computed in accordance with regulations adopted pursuant to the federal Truth-in-Lending Act; and

ii. any membership fees, finance charges, annual fees, transaction fees, rollover costs, lender's fees or any other possible charges that may be incurred by a consumer in relation to the institution's payday loans, including any interest, fees and other charges due at the time of any loan renewal;

iii. the state in which the lender/financial institution is chartered;

iv. the fact that the consumer will be required to supply personal information to receive the institution's payday loan, including information regarding his or her personal financial history;

v. the fact that a fee schedule for all charges related to the institution's payday loans will be available upon request;

vi. a contact number, such as the New York state banking department's Consumer Hotline, where a consumer/applicant can direct complaints against the lender/financial institution;

vii. the name of the lender/financial institution offering the payday loan.

c. Any person who is a party to an otherwise valid agreement with the city of New York in effect on the date of enactment of the local law that added this section shall not be subject to the requirements of this section for the term of such agreement. However, where such agreement provides for a right or rights of renewal for one or more periods upon the same terms and conditions or terms and conditions set forth in such agreement, the holder who is a party to such agreement or any agreements entered into pursuant to such right or rights of renewal shall be subject to the requirements of this section at the commencement of the first renewal period.

d. (1) Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this section. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-726 of this subchapter for each such violation. All proceedings authorized pursuant to this paragraph shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this paragraph shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

HISTORICAL NOTE

Section added L.L. 16/2005 § 1, eff. May 16, 2005.

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NYC Administrative Code 20-723.2

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§ 20-723.2 Disclosure Requirements for Businesses Promoting Credit Counseling Services.

a. Definitions. For purposes of this section: (1) "Credit counselor" shall mean any person, partnership, firm, corporation or business entity advertising, promoting, or offering the type or category of credit counseling services required to be received as a pre-condition for filing a petition for bankruptcy under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, including, but not limited to, consideration of alternatives to resolve a client's credit problems and an analysis of the client's budget, current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt.

(2) "Approved credit counselor" shall mean a credit counselor listed in the directory of authorized nonprofit budget and credit counseling service providers promulgated pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

b. (1) Any person, partnership, firm, corporation or business entity promoting or offering the services of a credit counselor, notwithstanding whether such person, partnership, firm, corporation or business entity accepts a fee for such services, shall provide written notice to any potential or actual consumer when such person, partnership, corporation, firm or business is not an approved credit counselor.

(2) Such notice, to be signed by any potential or actual consumer, shall include, but not be limited to, the

following provisions:

i. that the federal Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 created an approval process for nonprofit budget and credit counseling agencies that provide an evaluation of your current financial situation, a discussion on alternatives to bankruptcy and a personal budget plan;

ii. that to be approved by the United States Trustee and added to the directory of approved credit counselors, a credit counselor must satisfactorily demonstrate compliance with the requirements of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;

iii. that such credit counselor is not approved to offer bankruptcy counseling services pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;

iv. that a consumer of a credit counselor may contact the United States department of justice or the clerk of the United States bankruptcy court for the southern and eastern districts of New York for a list of credit counselors approved pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, if such consumer is considering filing a bankruptcy petition;

v. that a consumer of a credit counselor is not required to obtain a loan or enter into a contract for debt repayment with any specific credit counselor; and

vi. such other provisions as the department may deem appropriate.

c. Any person, partnership, firm, corporation or business entity that holds itself out to the public in printed, televised, or radio media as providing the services of a credit counselor but is not an approved credit counselor shall disclose in such media that it is not an approved credit counselor pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

d. (1) Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this section. The department shall have the power to render decisions and orders and to impose civil penalties of not less than two thousand five hundred dollars nor more than five thousand dollars for each violation. All proceedings authorized pursuant to this paragraph shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this paragraph shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

(3) The commissioner shall conspicuously disclose on its web site all persons, partnerships, firms, corporations or business entities that have been found to have violated any provisions of this section, or rules and regulations promulgated hereunder, within the preceding twelve months. Such disclosure shall, at minimum, list the name of each person, partnership, firm, corporation or business entity found to have violated any provisions of this section, or rules and regulations promulgated hereunder, as well as the nature of each violation.

HISTORICAL NOTE

Section added L.L. 34/2006 § 2, eff. Dec. 21, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 34/2006:

Section 1. Of increasing regularity, indebted city residents have been the victims of a fraudulent scheme presented under the guise of financial assistance. Under this unscrupulous plan, numerous dishonest lenders have begun offering "credit counseling" services. However, instead of devising a realistic management plan to reduce debt, these businesses frequently take advantage of their customers' dire financial situations. Often, the counselor will recommend that the consumer borrow funds to satisfy outstanding balances and consolidate payments. The counseling agency will then arrange such loan against the consumer's assets, often a real estate interest.

However, many victims of this scam report that the loan interest rates are so high that they are regularly in a worse fiscal position than before they sought counseling. Ultimately, the business that advertised its ability to help these consumers owns an interest in their customer's property and earns exorbitant interest on the funds loaned. When the consumer is unable to meet his or her monthly obligation, the lender may simply foreclose and sell the real estate.

Section 106 of the newly enacted Bankruptcy Prevention and Consumer Protection Act of 2005 prohibits an individual from filing for personal bankruptcy protection unless such person has received credit counseling from an approved nonprofit budget and credit counseling service prior to filing a bankruptcy petition. The U.S. Trustee may waive this requirement only if an applicant can establish that the district in which he or she resides does not provide adequate services.

Chapter 1 of the Bankruptcy and Consumer Protection Act of 2005 specifies the requirements that a services provider must satisfy to obtain federal approval, including, but not limited to, staffing, organizational structure and counseling topic areas. Determinations must be reviewed annually and approval may be revoked at any time. Further, the Chief Bankruptcy Clerk must maintain a list, available to the public, of all approved credit counselors. Presently, there are thirteen counselors approved for residents of the Southern District of New York State, which includes the city of New York, and fourteen for residents of the Eastern District.

To thwart unscrupulous lenders from taking advantage of consumers in financial crisis, and to ensure that each New Yorker receives the best counseling possible, the Council finds it necessary to require businesses that offer credit counseling services to inform individuals that the business, if not approved, has not been certified pursuant to the Bankruptcy Prevention and Consumer Protection Act of 2005.

. . . . . .

§ 3. This local law shall take effect one hundred twenty days after it shall have been enacted into law [Dec. 21, 2006]; provided, however, that the commissioner shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, establishing guidelines and promulgating rules.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-724

Administrative Code of the City of New York

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§ 20-724 Requirements of records.

Any such person, firm, corporation or association or agent, or employee thereof, doing business in New York city, making any one or more of the aforesaid statements, claims, offers, or representations of the types described in subdivisions (a), (b) and (c) of section 20-723 shall maintain full and adequate records disclosing the facts upon which any such statements, offers, claims or representations are based.

(a) All such records shall be open and available for inspection to the commissioner or to his or her duly designated representatives for a period of ninety days from the date of the offer.

(b) The failure of any such person, firm, corporation or association, or agent or employee thereof doing business in New York city to produce such records in substantiation of its claims shall be presumptive of the falsity of the advertisement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-116.1 added LL 19/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-725

Administrative Code of the City of New York

Title 20 Consumer Affairs

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§ 20-725 Rules and regulations.

The commissioner may make and promulgate such rules and regulations as may be necessary to carry out the purposes of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-117.1 added LL 19/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-726

Administrative Code of the City of New York

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§ 20-726 Violations.

Any person, firm, corporation or association or agent or employee thereof, who shall violate any of the provisions of this subchapter upon conviction thereof, shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment not exceeding thirty (30) days, or by both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-118.1 added LL 19/1968 § 1

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NYC Administrative Code 20-727

Administrative Code of the City of New York

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§ 20-727 Raincheck issuance disclosure.

A retailer, who has adopted as policy the issuance of rainchecks to consumers for the sale of advertised merchandise not available throughout the advertised period, shall clearly and conspicuously post such fact, along with a designation of where a raincheck can be obtained, within the retail establishment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-30.0 added LL 14/1981 § 3

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NYC Administrative Code 20-728

Administrative Code of the City of New York

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§ 20-728 Penalties.

Violation of this subchapter or any rule or regulation promulgated thereunder, shall be punishable by payment of a civil penalty in the sum of not less than twenty-five nor more than one hundred dollars for each violation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-31.0 added LL 14/1981 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-729

Administrative Code of the City of New York

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§ 20-729 Regulations.

The commissioner may adopt such rules and regulations as may be necessary to effectuate the purposes of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B64-32.0 added LL 14/1981 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-730

Administrative Code of the City of New York

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SUBCHAPTER 7 INFORMATION WITH RESPECT TO FUNERAL COSTS

§ 20-730 Definitions.

a. "Alternative container" means a non-metal receptacle or enclosure customarily not ornamented and designed for holding or transporting human remains.

b. "Cash advances" or "accommodations" means amounts advanced on the customer's behalf for various services and merchandise, including, but not limited to: cemetery or crematory charges, clergy honorarium, flowers, newspaper death notices, pall bearers, music, transportation charges, out-of-town funeral director's charges, hairdressers, bridge and road tolls, telephone and telegraph charges, gratuities.

c. "Casket" includes a coffin and means a rigid container designed for the encasement of human remains and customarily ornamented and lined with fabric.

d. "Customer" means any person, association or other entity who purchases or otherwise makes arrangements for the purchase of funeral services or merchandise, without intention of resale.

e. "Defacement" means any deliberate effort to make merchandise appear unattractive to customers including, but not limited to, displaying broken, soiled or defective merchandise.

f. "Funeral merchandise" means articles and supplies sold or offered for sale directly to the public, or used by

funeral directors, incident to: (1) the care and preparation of deceased human bodies for burial, cremation or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony.

g. "Funeral services" means services performed incident to: (1) the care and preparation of deceased human bodies for burial, cremation, or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony and the final disposition of the deceased including, but not limited to, transporting the remains, securing necessary permits, embalming, arranging for death notices, and other funeral-related items.

h. "Funeral service establishment" means the premises used or held out as being used to care for and prepare for burial of the body of a deceased person or maintained as the office from which business is transacted by a funeral director or undertaker.

i. "Immediate cremation" means a disposition of human remains which includes the reduction of the remains by a heating process and which does not involve formal viewing or a prior funeral ceremony with the body present.

j. "Memorial society" means an unincorporated association or not-for-profit corporation which assists members in obtaining and making arrangements for funerals, cremations or other methods of disposition.

k. "Offered for sale" means making available for purchase or suggesting availability of merchandise or services for purchase by use of any advertising or promotional materials, including brochures, handbills, or calendars, or by the displaying of merchandise, or verbal or written expressions, direct or indirect, of a willingness to furnish services or merchandise to the public for a retail price.

l. "Outer interment receptacle" means any container or enclosure which is placed in the grave around the casket to protect the casket or to prevent the collapse of the grave including, but not limited to, receptacles commonly known as burial vaults, grave boxes, or grave liners.

m. "Provider of funeral services" means any person, partnership or corporation, or any employee or agent thereof, engaged in the business of selling or offering for sale, directly to the public, funeral services or funeral merchandise; of preparing deceased human bodies for burial, cremation or other final disposition; or of conducting or arranging funerals.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-22.0 added LL 13/1981 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-731

Administrative Code of the City of New York

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§ 20-731 Casket and outer interment receptacle information.

a. Any provider of funeral services who offers a casket for sale, or an outer interment receptacle for sale in a selection room, shall prominently display the actual retail price on each casket or outer interment receptacle, in at least one-half inch numbers, as well as composition and model number of such casket or outer interment receptacle.

b. Any provider of funeral services who offers a casket or an outer interment receptacle for sale by means other than a selection room shall present to a customer for his or her selection a photograph or other pictorial representation of each model of casket or other interment receptacle so offered, with the price, composition and model number prominently displayed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-23.0 added LL 13/1981 § 2

Administrative Code of the City of New York

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NYC Administrative Code 20-732

Administrative Code of the City of New York

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§ 20-732 Statement to be furnished by provider of funeral services.

Any provider of funeral services shall prominently display on the funeral services establishment premises and make readily available to any customer or prospective customer a printed presentation sheet. The presentation sheet shall contain an itemized list of all funeral merchandise and services available at the establishment, a statement that the prices therefor are available upon request, and appropriate disclosures regarding legal requirements for procurement of funeral merchandise and services, the form and contents of which shall be prescribed by the commissioner. The presentation sheet shall be made current annually.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-24.0 added LL 13/1981 § 2

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NYC Administrative Code 20-733

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§ 20-733 Prohibited practices.

It shall be unlawful for any provider of funeral services:

a. to embalm without orally informing the customer that embalming is not required by law or to furnish other services or merchandise including embalming, without having first obtained from the customer explicit written or oral authorization;

b. to obtain custody of a deceased human body without having first received from the customer explicit written or oral authorization;

c. to fail to promptly release a body or give information regarding the care or whereabouts of a body upon request of a customer; d. to misrepresent cremation needs including requiring a customer who expresses an interest in immediate cremation of deceased human remains to purchase a casket, or claiming expressly or impliedly that a casket is required by law, or failing to make available to such customer an alternative container;

e. to misrepresent the law, public health necessity or religious requirements including the legal and health necessities for embalming, a casket, or an outer interment receptacle;

f. to make false preservative value claims, including claiming that decomposition or decay of a deceased human

body can be prevented by the use or purchase of embalming, a casket, a burial vault or other outer interment receptacle;

g. to charge in excess of the amount advanced, paid or owed to third parties on behalf of customers, or not passing along to the customer any discount, rebate or other benefit received from third parties for any items of service or merchandise described as "cash advances", "cash disbursements", "accommodations", or words of similar import.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-25.0 added LL 13/1981 § 2

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NYC Administrative Code 20-734

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§ 20-734 Merchandise and service selection.

It shall be unlawful for any provider of funeral services:

a. to fail to display the three least expensive caskets offered for sale in the same general manner as other caskets are displayed, provided that if fewer than twelve caskets are displayed, only the least expensive casket must be so displayed; or

b. to interfere with the customer's selection of merchandise or services offered for sale including: (1) representing in any manner that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell said product or services, (2) falsely discouraging any purchase by disparagement, by suggestion that any merchandise or service is not readily available or by defacement, (3) disparaging concern for price by suggestion that a customer's concern for price or desire to save money on merchandise or services is improper, inappropriate or indicative of a lack of respect or affection for the deceased, (4) contradicting, mitigating or detracting from the printed disclosures required by section 20-732 of this subchapter, or (5) making any claim that is false, misleading or unsubstantiated in a material respect regarding any merchandise or services.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-26.0 added LL 13/1981 § 2

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NYC Administrative Code 20-735

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§ 20-735 Interference with the market.

It shall be unlawful for any provider of funeral services to directly or indirectly prohibit, hinder or restrict, or attempt to prohibit, hinder or restrict:

a. the offering or advertising of the availability of low-cost funerals, immediate cremation or other forms of disposition, or arrangement for funeral services in advance of need by any provider of funeral services, memorial society, or other person, partnership, association or corporation;

b. any contract or arrangement between a memorial society and any provider of funeral services;

c. the disclosure of accurate price information in any manner regarding funeral merchandise or services by any provider of funeral services.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-27.0 added LL 13/1981 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-736

Administrative Code of the City of New York

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§ 20-736 Price information over telephone.

Any provider of funeral services shall, upon request, provide over the telephone, information regarding the range of prices and shall affirmatively disclose the availability of a presentation sheet at the establishment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-28.0 added LL 13/1981 § 2

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NYC Administrative Code 20-737

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§ 20-737 Regulations.

The commissioner shall promulgate rules and regulations reasonably necessary to effectuate the purposes of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-29.0 added LL 13/1981 § 2

CASE NOTES

¶ 1. Subchapter 7 of Chapter 20 of the Administrative Code gives the Commissioner of Consumer Affairs wide authority to enact consumer protection regulations relating to funeral homes. The regulations deal with contracts, disclosure of prices, and disclosure of the persons or entities having ownership interest in funeral homes. See annotations under 6 RCNY §§ 5-162, 5-164, 5-165 and 5-166 for details. Metropolitan Funeral Directors Assn. v. City of New York, 702 N.Y.S.2d 526 (Sup.Ct. New York Co. 1999).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-738

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 7 INFORMATION WITH RESPECT TO FUNERAL COSTS

§ 20-738 Penalties.

Violation of any provision of this subchapter shall be punishable by a civil penalty of not less than one hundred nor more than one thousand dollars for each violation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C64-30.0 added LL 13/1981 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-739

Administrative Code of the City of New York

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SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-739 Definition.

1. For the purposes of this subchapter, the term "tax preparer" or "preparer" means a person, partnership, corporation or other business entity, that for valuable consideration advises or assists or offers to advise or assist in the preparation of income tax returns for another.

2. For the purposes of this subchapter, the term "refund anticipation loan" means any loan a taxpayer may receive against his or her anticipated income tax refund.

HISTORICAL NOTE

Section amended L.L. 31/2003 § 1, eff. June 27, 2003.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-121.0 added LL 1/1981 § 1

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-740

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§ 20-740 Disclosure.

a. A tax preparer who is required, pursuant to federal, state or local law or regulation, to sign income tax returns as a preparer shall prominently and conspicuously post on the business premises an identification and qualification statement. The statement shall include, but is not limited to, the name of the tax preparer, an address and phone number at which the tax preparer can be contacted throughout the year, and a statement of any qualifications possessed by the tax preparer, which may include a statement of satisfactory completion of an educational or training program in income tax law, theory or practice by the preparer.

b. The tax preparer shall provide the customer with a receipt containing an address and phone number at which the preparer can be contacted throughout the year.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-121.1 added LL 1/1981 § 1

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-740.1

Administrative Code of the City of New York

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SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-740.1 Consumer bill of rights regarding tax preparers.

a. No later than the fifteenth of October of each year, the department shall produce and publish in the city record a one page informational flier regarding consumers' rights and laws concerning tax preparers to be called a "consumer bill of rights regarding tax preparers". The flier shall be in a form which is easily reproducible by photocopy machine and shall contain information including, but not limited to, the following:

1. Postings required by local, state and federal laws, such as price posting, posting of qualifications, and any licenses and permits required for the operation of the business; and

2. Explanations of some of the commonly offered services and industry jargon, such as preparation of short and long federal forms, refund, electronic filing, express mail, direct deposit, refund anticipation loan, "quick," "instant," "rapid," "fast," fee, and interest; and

3. Basic information on what a tax preparer is and is not required to do for a consumer, such as the preparer's responsibility to sign a return, that a tax preparer may not be required to accompany a consumer to an audit but the company may have a voluntary policy to accompany consumers to audits; and

4. The telephone numbers of the department for information and complaints; and

5. A statement that the consumer has the right to receive the following information from the tax preparer prior to becoming obligated to compensate such tax preparer for services rendered in connection with filing such consumer's income tax return with the appropriate governmental agencies: (a) A written list of the refund and tax preparation services offered by the tax preparer;

(b) A written estimate of the total costs to the consumer for each refund and tax preparation service offered by the tax preparer. Such an estimate shall include basic filing fees, interest rates, refund anticipation loan processing fees, and any other related fees or charges;

(c) A written interest rate estimation for a refund anticipation loan or any other loan services offered by the tax preparer; and

(d) For each refund and tax preparation service offered by the tax preparer, a written estimate of the period of time the consumer can reasonably expect to wait for his or her tax refund.

b. The department shall publicize the availability of the flier. The department shall provide a copy of the consumer bill of rights regarding tax preparers to any requesting individuals or businesses within fourteen days of such a request and shall, no later than November 1 of each year, send the consumer bill of rights regarding tax preparers to each tax preparer who has been found to be in violation of this subchapter or any other provision of this chapter within the previous calendar year. In addition, each tax preparer subject to this subchapter shall obtain a current consumer bill of rights regarding tax preparers from the department and shall reproduce it so that it is clear and legible. As of January 1 of each year, each such tax preparer shall give to each consumer, free of charge, a current, legible copy of the consumer bill of rights regarding tax preparers prior to any discussion with the consumer. Each such tax preparer shall also verbally direct the consumer to review the consumer bill of rights regarding tax preparers and shall answer any questions the consumer may have about its contents.

HISTORICAL NOTE

Section amended (§ heading not laid out) L.L. 5/2007 § 1, eff. May 13,

2007.

Section addded L.L. 41/1991 § 2, eff. June 18, 1991. [See Note 1]

NOTE

1. Provisions of 41/1991 § 1:

Section 1. Legislative findings and intent. Over the past two years, oversight of tax preparers has revealed a number of problems for consumers. Not all of these problems are capable of resolution by specific legislation, which might, as well, unnecessarily burden the industry. Therefore, the Council finds that it is important to provide consumers as much information as possible about how to protect their rights when patronizing tax preparers.

2. Provisions in City Record Nov. 1, 2004:

CONSUMER BILL OF RIGHTS REGARDING

TAX PREPARERS

The tax preparer is required by law to give each customer a free, current, and legible copy of this "Consumer Bill of Rights Regarding Tax Preparers" before any discussions with a consumer.

If You Are Hiring A Tax Preparer, You Have a Right to Know:

o The individual tax preparer's qualifications. A notice of a tax preparer's qualifications must be posted in the office, and a preparer must maintain records showing the qualifications are real, including whether the preparer is an accountant or an attorney.

o How fees are calculated, including minimum charges and any additional charges. You must be given a receipt which states the charges for each tax return. The receipt must list the address and phone number where the tax preparer may be contacted during the year.

o Whether or not the tax preparer will represent the taxpayer at a government audit. Failure to make this disclosure shall mean that the tax preparer agrees to represent the tax payer or to provide representation.

Information about Refund Anticipation Loans (RALs)

o A Refund Anticipation Loan (RAL) is not a tax refund, but is in fact a high-interest loan against an anticipated tax refund.

o Any advertisement for an RAL must conspicuously identify it as a loan and that a fee or interest will be charged by the lender, and it must identify the lender.

o Before entering into a RAL, a tax preparer must disclose in writing in English and Spanish:

o - that a taxpayer is not required to take out a RAL;

o - the gross amount of the refund a consumer is eligible to receive without taking out a RAL;

o - the fees to be paid for taking out such a loan;

o - the approximate loan amount the tax payer will receive;

o - the estimated annual percentage rate to be paid for the loan based on the amount of time the loan will be outstanding;

o - the approximate date by which a tax payer who takes out a loan can expect to receive the loan amount or the approximate date by which a taxpayer who does not take out a RAL can expect to receive his or her tax refund.

o If a tax payer does not understand English or Spanish, a tax preparer must orally explain the information about a RAL in a language the tax payer understands.

o Earned Income Tax Credit ("EITC") eligible consumers and other taxpayers entitled to tax refunds should ask tax preparers about electronic and other filing options that will speed up payment of refunds without the high cost of using RALs.

You are also entitled to:

o Receive all personal papers upon request, when the original tax return is given to the taxpayer for filing (unless the tax preparer is specifically permitted to retain such papers under state law).

o Receive a copy of every tax return prepared, at the time the original is given to the taxpayer for filing.

o Have the tax preparer sign every tax return.

A Tax Preparer Cannot:

o Ask a taxpayer to sign a blank or incomplete tax return.

- Misrepresent his or her qualifications.

- Reveal any information appearing on, or related to, a tax return to any person or business other than the taxpayer, or his or her authorized designee.

- Induce or attempt to induce a taxpayer to violate any governmental law, rule or regulation.

- Use the word "accountant" in any advertisement unless at least one Certified Public Accountant or Public Accountant is present at each tax preparation location during all business hours, and controls all tax returns prepared at the location.

- Use any term describing a specialty or expertise in an advertisement, unless the tax preparer's relevant education or experience is also disclosed in the advertisement.

- Change a tax return after it has been signed by the taxpayer, without the taxpayer's written consent.

- Charge a fee based upon the amount of tax owed or refund due.

- Guarantee a tax refund, or guarantee that the taxpayer will not be audited by any government tax agency.

- Request a taxpayer to assign to the preparer any portion of the refund due.

- Use the tax preparer's addresses on a tax return as the place to which a refund should be mailed, unless the taxpayer has signed a power of attorney containing such authorization.

- Claim tell a taxpayer that a refund anticipation loan is a tax refund and not a loan.

Consumers may complain to the New York City Department of Consumer Affairs, 42 Broadway, New York, NY 10004, (212) 3-1-1 or www.nyc.gov/consumers>.

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-741

Administrative Code of the City of New York

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SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-741 Records.

No tax preparer shall intentionally misstate or misrepresent any information relating to his or her education, training or experience on an identification and qualification statement. A tax preparer shall maintain records to substantiate all of the information contained on such a statement; provided, however, that an affidavit signed by the tax preparer indicating that the information contained on a statement is true shall be sufficient to substantiate any information if other records are not available. Such records and/or affidavit shall be kept on file on the business premises and shall be presented on demand for inspection by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-121.2 added LL 1/1981 § 1

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-741.1

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SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-741.1 Refund anticipation loans.

1. Any tax preparer who advertises the availability of a refund anticipation loan may not directly or indirectly represent such a loan as a refund. Any advertisement which mentions a refund anticipation loan must state conspicuously that it is a loan and that a fee or interest will be charged by the lending institution. The advertisement must also disclose the name of the lending institution.

2. Before any taxpayer enters into a refund anticipation loan, the tax preparer facilitating such loan shall provide the following disclosure to the taxpayer in writing, in English and Spanish, in at least 14-point type. In the event that the taxpayer does not understand English or Spanish, the tax preparer shall also provide a point-by-point oral explanation of the following required disclosure in a language understood by the tax payer:

o YOU ARE NOT REQUIRED TO ENTER INTO THIS REFUND ANTICIPATION LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

o IF YOU DO SIGN A CONTRACT FOR A REFUND ANTICIPATION LOAN, YOU WILL BE TAKING OUT A LOAN. YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES, REGARDLESS OF HOW MUCH MONEY YOU ACTUALLY RECEIVE IN YOUR TAX REFUND.

o IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU ARE ELIGIBLE TO RECEIVE A GROSS TAX REFUND OF APPROXIMATELY $[insert amount].

o IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU WILL BE RESPONSIBLE TO PAY $ [insert amount] IN FEES FOR THE LOAN. AFTER THESE FEES ARE PAID, YOU WILL RECEIVE APPROXIMATELY $ [insert amount] AS YOUR LOAN.

o THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR REFUND ANTICIPATION LOAN IS [insert amount]%. THIS IS BASED ON THE ACTUAL AMOUNT OF TIME YOU WILL BE LENT MONEY THROUGH THIS REFUND ANTICIPATION LOAN.

o IF YOU DO TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN EXPECT TO RECEIVE YOUR LOAN WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date].

o IF YOU DO NOT TAKE OUT THIS REFUND ANTICIPATION LOAN, YOU CAN STILL RECEIVE YOUR TAX REFUND QUICKLY. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND RECEIVE YOUR TAX REFUND THROUGH THE MAIL, YOU CAN EXPECT TO RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date]. IF YOU FILE YOUR TAX RETURN ELECTRONICALLY AND HAVE YOUR TAX REFUND DIRECTLY DEPOSITED INTO A BANK ACCOUNT, YOU CAN EXPECT TO RECEIVE YOUR REFUND WITHIN APPROXIMATELY TWO BUSINESS DAYS OF [insert date].

It shall be the obligation of the tax preparer to complete the required disclosure accurately with all relevant information for each taxpayer, to provide the required point-by-point oral explanation when necessary, and to ensure that the completed disclosure form is signed by the taxpayer before he or she enters into a refund anticipation loan.

HISTORICAL NOTE

Section amended L.L. 31/2003 § 2, eff. June 27, 2003.

Section added L.L. 17/1990 § 1 eff. August 19, 1990.

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-742

Administrative Code of the City of New York

Title 20 Consumer Affairs

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SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-742 Exemptions.

Apart from § 20-741.1 and the accompanying penalties as listed in § 20-743, the provisions of this subchapter shall not apply to:

a. An officer or employee of a corporation or business enterprise who, in his or her capacity as such, advises or assists in the preparation of income tax returns relating to such corporation or business enterprise.

b. An attorney at law who advises or assists in the preparation of income tax returns in the practice of law and the employees thereof.

c. A fiduciary and the employees thereof who advised or assist in the preparation of income tax returns on behalf of the fiduciary estate, the testator, trustee, grantor or beneficiaries thereof.

d. A certified public accountant and the employees thereof.

e. A public accountant licensed pursuant to the education law and the employees thereof.

f. An employee of a governmental unit, agency or instrumentality who advises or assists in the preparation of income tax returns in the performance of his or her official duties.

g. An agent enrolled to practice before the internal revenue service pursuant to section 10.4 of subpart A of part ten of title thirty-one of the code of federal regulations.

HISTORICAL NOTE

Section amended L.L. 17/1990 § 2 eff. August 19, 1990.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-121.3 added LL 1/1981 § 1

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-743

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-743 Penalties.

Any person, partnership, corporation or other business entity who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than seven hundred fifty dollars.

HISTORICAL NOTE

Section amended L.L. 31/2003 § 3, eff. June 27, 2003.

Section added chap 907/1985 § 1

DERIVATION

Formerly § B36-121.4 added LL 1/1981 § 1

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-743.1

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 8 INCOME TAX PREPARERS*109

§ 20-743.1 Civil Cause of Action.

Any person claiming to be injured by the failure of a tax preparer to act in accordance with section 20-741.1 of this subchapter shall have a cause of action against such tax preparer in any court of competent jurisdiction for any or all of the following relief:

a. compensatory and punitive damages;

b. injunctive and declaratory relief;

c. attorneys' fees and costs; and

d. such other relief as a court may deem appropriate.

HISTORICAL NOTE

Section added L.L. 31/2003 § 4, eff. June 27, 2003.

FOOTNOTES

109

[Footnote 109]: * Added LL 1/1981 § 1 with special provision-rules promulgated LL 1/1981 § 2

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NYC Administrative Code 20-744

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Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 9 SALE OF TRAVEL TICKETS

§ 20-744 Procurement or sale of tickets, reservations or passenger accommodations.

a. It is hereby determined and declared that the price or charge for the procurement on behalf of another, by purchase or otherwise or upon the sale or resale, within the corporate limits of the city of New York, of tickets, reservations or passenger accommodations issued by any railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line is a matter affected with a public interest and subject to the supervision of the authorities of said city for the purpose of safeguarding the public against fraud, extortion, exorbitant rates and similar abuses.

b. It shall be unlawful for any person to require, charge, make or receive, within the corporate limits of the city of New York, for the procurement on behalf of another, by purchase or otherwise, of any ticket, reservation or passenger accommodation, issued by any railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line, a fee or service charge or any payment or consideration for rendering such service in excess of one dollar for the first transportation ticket, reservation or passenger accommodation or first parlor car or sleeping car reservation or passenger accommodation, or in excess of one dollar for any additional transportation ticket or parlor car or sleeping car reservation or passenger accommodation over the established tariff charge or charges therefor.

c. It shall be unlawful for any person to procure on behalf of another person, within the corporate limits of the city of New York by purchase or otherwise, any ticket, reservation or passenger accommodation, issued by any railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line, with the intent, with respect to such other person, to require, charge, make or receive a service charge or any payment or consideration for rendering service

in excess of the amount or amounts hereinabove specified in subdivision b over the established tariff charge or charges therefor.

Proof of the making of a service charge or of the receipt of any payment or consideration, in connection with the procurement of such ticket, reservation or passenger accommodation, for such other person, in excess of the amount or amounts hereinabove specified in subdivision b, over such established tariff charge or charges, shall be presumptive evidence of the intent mentioned in the next preceding subdivision.

d. It shall be unlawful for any person to sell, resell or cause to be resold, within the corporate limits of the city of New York, any ticket, reservation or passenger accommodation, issued by any railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line, at a price in excess of the amount or amounts hereinabove specified in subdivision b over the established tariff charge or charges therefor.

e. It shall be unlawful for any person to procure, within the corporate limits of the city of New York, by purchase or otherwise, any ticket, reservation or passenger accommodation, issued by any railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line, with the intent to sell or resell the same, or cause the same to be sold or resold, at a price in excess of the amount or amounts hereinabove specified in subdivision b over the established tariff charge or charges therefor.

Proof of the sale or resale of such ticket, reservation or passenger accommodation or combination thereof at a price in excess of the amount or amounts hereinabove specified in subdivision b over such established tariff charge or charges shall be presumptive evidence of the intent mentioned in the next preceding subdivision.

f. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who, as such officer, member or employee, is responsible for the act in respect of which the violation occurs.

The term "established tariff charge" shall be the charge set forth in the tariff as published and filed by the railroad, parlor or sleeping car owner or operator, steamship company, air line or bus line involved.

g. The person responsible for the management of each travel agency and hotel operating within the corporate limits of the city of New York shall cause a copy of this subchapter to be posted in a conspicuous place upon the premises of the agency or hotel for the information of patrons, guests and members of the public at large.

h. Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding ten days or both, for each separate offense.

i. This subchapter shall not apply to tickets, reservations or passenger accommodations: (a) to or from places outside of the continental United States and Canada, excluding Alaska; nor (b) to existing written contracts between any travel agency with corporations, firms or government agencies covering tourist or travel services.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 363-2.0 added LL 48/1943 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The defendants were convicted of conspiracy to violate this section in that they charged a fee in excess of

$1.00 for the purchase and resale of railroad tickets and accommodations. Over defendants' contention that the section was not within the scope of the legislative power of cities, the conviction was affirmed.-People v. Cooper, 294 N.Y. 797, 62 N.E. 2d 236 [1945].

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NYC Administrative Code 20-745

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 10 INFORMATION REGARDING REDEMPTION OF BEVERAGE CONTAINERS*110

§ 20-745 Definitions.

For the purposes of this subchapter the following terms shall have the following meanings:

a. "Beverage" means any beverage covered by title ten of article twenty-seven of the environmental conservation law of the state of New York;

b. "Beverage container" means any can, bottle or other container of any description that is covered by title ten of article twenty-seven of the environmental conservation law of the state of New York;

c. "Dealer" means any person engaged in the retail sale, for off-premises consumption of beverages in beverage containers that are covered by title ten of article twenty-seven of the environmental conservation law of the state of New York;

d. "Redeemer" means any person, other than a dealer or distributor, who demands the refund value in exchange for an empty beverage container.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D64-33.0 added LL 25/1985 § 2

FOOTNOTES

110

[Footnote 110]: * Added LL 25/1985 § 2, legislative findings, "bottle bill" or "bottle law" confusion, LL 25/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-746

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 10 INFORMATION REGARDING REDEMPTION OF BEVERAGE CONTAINERS*110

§ 20-746 Sign required.

Every dealer shall post conspicuously a sign that summarizes the rights and obligations of redeemers pursuant to title ten of article twenty-seven of the environmental conservation law of the state of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D64-34.0 added LL 25/1985 § 2

FOOTNOTES

110

[Footnote 110]: * Added LL 25/1985 § 2, legislative findings, "bottle bill" or "bottle law" confusion, LL 25/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-747

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 10 INFORMATION REGARDING REDEMPTION OF BEVERAGE CONTAINERS*110

§ 20-747 Regulations.

The commissioner may adopt such rules and regulations as may be necessary to effectuate the purposes of this subchapter. Such regulations shall include, but not be limited to, defining the contents, size and location of the sign required by section 20-746 of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D64-35.0 added LL 25/1985 § 2

FOOTNOTES

110

[Footnote 110]: * Added LL 25/1985 § 2, legislative findings, "bottle bill" or "bottle law" confusion, LL

25/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-748

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 10 INFORMATION REGARDING REDEMPTION OF BEVERAGE CONTAINERS*110

§ 20-748 Penalties.

Violation of this subchapter, or any regulation promulgated pursuant to it, shall be punishable by payment of a civil penalty not to exceed two hundred fifty dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D64-36.0 added LL 25/1985 § 2

FOOTNOTES

110

[Footnote 110]: * Added LL 25/1985 § 2, legislative findings, "bottle bill" or "bottle law" confusion, LL 25/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-749

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 11 POSTING OF PRICES IN RETAIL SERVICE ESTABLISHMENTS

§ 20-749 Definitions.

(a) "Current selling price" means the regular price of a listed service, so that, in the absence of any special offer, the service would be given upon payment of the listed price.

(b) "Service" means a basic service performed by a retail service establishment. It also means any special service not commonly offered by such an establishment which the establishment offers to distinguish itself from its competitors.

(c) "Retail service establishment" shall mean any establishment which provides services to consumers at retail, and shall include but not be limited to the following: tailors, dry cleaners, laundries, barbers and hair salons, nail salons, shoe and luggage repair shops, locksmiths, electrical or electronic appliance or equipment repair shops, reupholstery or furniture repair shops, tax preparers and photographic film development providers.

HISTORICAL NOTE

Section added L.L. 32/1990 § 1 eff. October 7, 1990.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-750

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 11 POSTING OF PRICES IN RETAIL SERVICE ESTABLISHMENTS

§ 20-750 Display of service prices.

(a) Every retail service establishment must post, at each counter or desk at which orders are placed and/or payment is made, a list conspicuously displaying the current selling price of the basic services provided. The list shall also disclose factors which may cause the price to be higher than the basic price, and the range of the possible additional charges when such variables pertain.

(b) In the event of a special sale or promotion, the regular price list shall remain conspicuously visible.

c. Notwithstanding any other law, rule or regulation, and in addition to any other penalties provided in this code or elsewhere, the disclosure of differing prices or fees based upon gender by a retail service establishment shall constitute a violation of this subchapter.

HISTORICAL NOTE

Section added L.L. 32/1990 § 1 eff. October 7, 1990.

Subd. c added L.L. 2/1998 § 1, eff. Jan. 9, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-751

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 11 POSTING OF PRICES IN RETAIL SERVICE ESTABLISHMENTS

§ 20-751 Disclosure of base prices.

(a) Where the price of the service is calculated on a base fee plus labor and parts as determined by time and cost of materials, the base fee and the cost of labor per common unit of time shall be listed, and the list shall state that the cost of parts will be additional. The list shall also state that warranty information is available on request.

(b) Where the cost of service includes the cost of parts, the service establishment shall provide a list of parts actually provided and the cost of each.

HISTORICAL NOTE

Section added L.L. 32/1990 § 1 eff. October 7, 1990.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-752

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 11 POSTING OF PRICES IN RETAIL SERVICE ESTABLISHMENTS

§ 20-752 Regulations.

(a) The commissioner shall promulgate such regulations as shall be necessary to effectuate the purposes of this subchapter, including, but not limited to requirements as to the manner of display of service prices.

(b) The commissioner may, by regulation, permit a printed list to be substituted for a posted list, in such classes of service establishments in which the commissioner determines that it would be impracticable to post because the list is subject to frequent changes, provided that the printed list is given to each customer upon entering the service establishment.

HISTORICAL NOTE

Section added LL 32/1990 § 1 eff. October 7, 1990.

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NYC Administrative Code 20-753

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Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 11 POSTING OF PRICES IN RETAIL SERVICE ESTABLISHMENTS

§ 20-753 Penalties.

Any person who shall violate the provisions of this subchapter or the regulations promulgated pursuant to this subchapter shall, upon conviction thereof, pay a civil penalty of not less than fifty dollars and not more than two hundred and fifty dollars for the first offense and for each succeeding offense a penalty of not less than one hundred dollars nor more than five hundred dollars for each such violation. For the purpose of this section, if on any single day the current selling price list is not displayed in accordance with this subchapter or the regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

HISTORICAL NOTE

Section added L.L. 32/1990 § 1 eff. October 7, 1990.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-755

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 12 DELAYED PAYMENT TRANSACTIONS: BILLING PRACTICES

§ 20-755 Definitions.

For the purposes of this subchapter, the following definitions shall apply:

a. "Delayed payment transaction" means a purchase of a good or service by a consumer for which the provider agrees to accept payment at a future date. This shall include, but not be limited to, one-time purchases and ongoing accounts. It shall not include loans, installment purchases or other transactions which are subject to conflicting state or federal regulation.

b. "Provider" includes, but shall not be limited to, general merchandise stores, specialized merchandise stores, groceries, florists, pharmacies, dry cleaners, laundries, beauty salons, barbershops, shoe and luggage repair shops, appliance repair shops, automobile repair shops, gas stations, restaurants and bars. It shall not include professionals such as accountants, attorneys, and doctors, where such professionals are providing professional services as opposed to providing products.

c. "Consumer invoice" means a statement of monies owed to the provider for delayed payment transactions, and shall include, but not be limited to, periodic statements such as weekly `tabs' or monthly bills.

d. "Plain language description" means a description in commonly used words, containing sufficient detail to identify the type and quantity of product or service being described. It shall not mean a provider's transaction number or

code, or a technical description not commonly used among consumers.

HISTORICAL NOTE

Section added L.L. 33/1990 § 1 eff. October 7, 1990.

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SUBCHAPTER 12 DELAYED PAYMENT TRANSACTIONS: BILLING PRACTICES

§ 20-756 Consumer invoices; required disclosure.

a. Any invoice provided to the consumer of a delayed payment transaction shall separately disclose each item or service for which the consumer is being billed, including the following specific disclosures:

1. a plain-language description of the item or service provided;
2. the make and model number, where applicable;
3. the cost of the item or service;
4. date of purchase or service;
5. date of delivery, where applicable;
6. the name and business address of the provider;
7. the telephone number of the provider's billing department or customer service representative; and
8. any other characteristics of the transaction required to be disclosed by law or regulation.

b. Where an itemized receipt or, in the case of a food store, a cash register tape is given to the consumer at the time of purchase, the invoice need only disclose the name, address, and telephone number of the provider; the date of the transaction; and the dollar amount of the transaction.

HISTORICAL NOTE

Section added L.L. 33/1990 § 1 eff. October 7, 1990.

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NYC Administrative Code 20-757

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 12 DELAYED PAYMENT TRANSACTIONS: BILLING PRACTICES

§ 20-757 Unsolicited offers.

Offers for goods or services shall not appear on any invoice for a delayed payment transaction unless the customer has previously agreed to receive such offers. Where the consumer has so agreed, and the item listed is an offer, the invoice must state in letters of point size equal to that of the amount to be charged, "This is an offer." No offers shall be included in the total amount due and payable, but must be separately itemized and totalled.

HISTORICAL NOTE

Section added L.L. 33/1990 § 1 eff. October 7, 1990.

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NYC Administrative Code 20-758

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 12 DELAYED PAYMENT TRANSACTIONS: BILLING PRACTICES

§ 20-758 Violations.

Any provider or agent or employee thereof who shall violate any of the provisions of this subchapter, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars ($500), and shall be liable for a civil penalty of one hundred dollars ($100) for each violation.

HISTORICAL NOTE

Section added L.L. 33/1990 § 1 eff. October 7, 1990.

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NYC Administrative Code 20-760

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 13 TOBACCO PRODUCT PROMOTION

§ 20-760 Tobacco product promotion restriction.

a. It shall be unlawful for any person to offer or cause to be offered a tobacco product promotion, as defined in section 27-508.2 of this code, to any person younger than eighteen years of age.

b. Any person offering or causing to be offered a tobacco product promotion shall verify through a driver's license or other photographic identification card issued by a government entity or educational institution that a person to whom a tobacco product promotion has been offered is at least eighteen years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the offering of a tobacco product promotion to an individual under eighteen years of age.

c. A proceeding to recover any civil penalty pursuant to this subchapter shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal of the department. The administrative tribunal of the department shall have the power to impose civil penalties for violation of this subchapter.

d. Nothing in this subchapter shall be deemed to prohibit sponsorship of or at events as set forth in section 27-508.5 of this code.

HISTORICAL NOTE

Section added L.L. 3/1998 § 7, eff. July 13, 1998 as per L.L. 10/1998

§ 1.

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NYC Administrative Code 20-762

Administrative Code of the City of New York

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 13-A*127 MOTORIZED SCOOTERS

§ 20-762 Motorized Scooters.

a. For purposes of this section, a motorized scooter shall have the definition set forth in section 19-176.2 of this code.

b. No person shall sell, lease or rent or attempt to sell, lease or rent a motorized scooter to another person in the city of New York.

c. Any person who violates subdivision b of this section shall be liable for a civil penalty of one thousand dollars for a first violation and a civil penalty of two thousand dollars for each subsequent violation within one year. Each sale, lease or rental, or attempt to sell, lease or rent, a motorized scooter shall be deemed a separate violation. Authorized employees of the department, the police department, and of any other agency designated by the mayor, shall have the authority to enforce the provisions of this section. Such penalties shall be recovered in a civil action or in a proceeding commenced by the service of a notice of hearing that shall be returnable before the administrative tribunal of the department. In addition, such violation shall be a traffic infraction and shall be punishable in accordance with section eighteen hundred of the New York state vehicle and traffic law.

d. Any motorized scooter that has been used or is being used in violation of the provisions of this section may be impounded and shall not be released until any and all removal charges and storage fees and the applicable fines have been paid or a bond has been posted in an amount satisfactory to the commissioner.

HISTORICAL NOTE

Section added L.L. 51/2004 § 3, eff. Mar. 23, 2005. [See § 19-176.2 Note 1]

FOOTNOTES

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[Footnote 127]: * Subchapter number, heading and schedule supplied by editor.

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 14*128 DOMESTIC WORKERS AND HOUSEHOLD EMPLOYEES

§ 20-770 Application.

The provisions of this subchapter shall apply to all employment agencies, as defined in section 171 of article 11 of the general business law, which arrange employment for domestic or household employees.

HISTORICAL NOTE

Section added L.L. 33/2003 § 2, eff. Sept. 1, 2003. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 128]: * There are two subchapter 14s. This subchapter 14 added L.L. 33/2003 § 2, eff. Sept. 1, 2003. Note provisions of L.L. 33/2003:

Section 1. Legislative findings and intent. The placement of domestic or household employees into the

homes of employers creates special problems, including the risk of abuse and exploitation. The majority of domestic or household employees in New York City are immigrant women of color who, because of race and sex discrimination, language barriers and immigration status, are particularly vulnerable to unfair labor practices. Encouraging responsible practices with respect to the placement of domestic or household employees is in the interests of employees, employment agencies, employers and the public.

. . . . . §3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

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CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 14*128 DOMESTIC WORKERS AND HOUSEHOLD EMPLOYEES

§ 20-771 Statement of employee rights and employer obligations under state and federal law.

a. Every licensed employment agency under the jurisdiction of the commissioner and engaged in the job placement of domestic or household employees shall provide to each applicant for employment as a domestic or household employee and his or her prospective employer, before job placement is arranged, a written statement indicating the rights of such employee and the obligations of his or her employer under state and federal law. Such statement of rights and obligations shall embody provisions of state and federal laws that pertain to domestic or household employees, both in their capacity as workers in New York state and the United States and in their capacity specifically as domestic or household employees in New York state and the United States. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation. Such statement of rights and obligations shall be prepared and distributed by the commissioner to licensed employment agencies over which the commissioner has jurisdiction.

b. Every employment agency engaged in the job placement of domestic or household employees shall keep on file in its principal place of business for a period of three (3) years a statement, signed by the employer of a domestic or household employee whom the employment agency has placed with such employer, indicating that the employer has read and understands the statement of rights and obligations he or she received pursuant to subdivision (a) of this section.

HISTORICAL NOTE

Section added L.L. 33/2003 § 2, eff. Sept. 1, 2003. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 128]: * There are two subchapter 14s. This subchapter 14 added L.L. 33/2003 § 2, eff. Sept. 1, 2003. Note provisions of L.L. 33/2003:

Section 1. Legislative findings and intent. The placement of domestic or household employees into the homes of employers creates special problems, including the risk of abuse and exploitation. The majority of domestic or household employees in New York City are immigrant women of color who, because of race and sex discrimination, language barriers and immigration status, are particularly vulnerable to unfair labor practices. Encouraging responsible practices with respect to the placement of domestic or household employees is in the interests of employees, employment agencies, employers and the public.

. . . . . §3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

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SUBCHAPTER 14*128 DOMESTIC WORKERS AND HOUSEHOLD EMPLOYEES

§ 20-772 Statement of job conditions; records.

a. Every licensed employment agency under the jurisdiction of the commissioner and engaged in the job placement of domestic or household employees shall provide to each applicant for employment as a domestic or household employee a written statement, in a form approved by the commissioner, of the job conditions of each potential employment position to which the agency recommends that the applicant apply. Each such statement shall fully and accurately describe the nature and terms of employment, including the name and address of the person to whom the applicant is to apply for such employment, the name and address of the person authorizing the hiring for such position, wages, hours of work, the kind of services to be performed and agency fee.

b. Every employment agency engaged in the job placement of domestic or household employees shall keep on file in its principal place of business for a period of three (3) years a duplicate copy of the written statement of job conditions required by subdivision (a) of this section.

HISTORICAL NOTE

Section added L.L. 33/2003 § 2, eff. Sept. 1, 2003. [See Subchapter 14 footnote]

FOOTNOTES

128

[Footnote 128]: * There are two subchapter 14s. This subchapter 14 added L.L. 33/2003 § 2, eff. Sept. 1, 2003. Note provisions of L.L. 33/2003:

Section 1. Legislative findings and intent. The placement of domestic or household employees into the homes of employers creates special problems, including the risk of abuse and exploitation. The majority of domestic or household employees in New York City are immigrant women of color who, because of race and sex discrimination, language barriers and immigration status, are particularly vulnerable to unfair labor practices. Encouraging responsible practices with respect to the placement of domestic or household employees is in the interests of employees, employment agencies, employers and the public.

. . . . . §3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

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SUBCHAPTER 14*128 DOMESTIC WORKERS AND HOUSEHOLD EMPLOYEES

§ 20-773 Enforcement.

In order to implement and carry out the requirements of this subchapter, the commissioner or his or her duly authorized agent or inspector shall have the same authority as set forth in section 189 of article 11 of the general business law.

HISTORICAL NOTE

Section added L.L. 33/2003 § 2, eff. Sept. 1, 2003. [See Subchapter 14 footnote]

FOOTNOTES

128

[Footnote 128]: * There are two subchapter 14s. This subchapter 14 added L.L. 33/2003 § 2, eff. Sept. 1, 2003. Note provisions of L.L. 33/2003:

Section 1. Legislative findings and intent. The placement of domestic or household employees into the homes of employers creates special problems, including the risk of abuse and exploitation. The majority of domestic or household employees in New York City are immigrant women of color who, because of race and sex discrimination, language barriers and immigration status, are particularly vulnerable to unfair labor practices. Encouraging responsible practices with respect to the placement of domestic or household employees is in the interests of employees, employment agencies, employers and the public.

. . . . . §3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

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SUBCHAPTER 14*128 DOMESTIC WORKERS AND HOUSEHOLD EMPLOYEES

§ 20-774 Violations.

Any person who violates, and the officers of a corporation and stockholders holding ten percent or more of the stock of a corporation which is not publicly traded, who knowingly permit the corporation to violate, subdivisions (a) and (b) of sections 20-771 and 20- 20-772 of this subchapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed one thousand dollars, or imprisonment for not more than one year, or both, by any court of competent jurisdiction. Criminal proceedings based upon violations of such subdivisions may be instituted by the commissioner and/or any persons aggrieved by such violations.

HISTORICAL NOTE

Section added L.L. 33/2003 § 2, eff. Sept. 1, 2003. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 128]: * There are two subchapter 14s. This subchapter 14 added L.L. 33/2003 § 2, eff. Sept. 1, 2003. Note provisions of L.L. 33/2003:

Section 1. Legislative findings and intent. The placement of domestic or household employees into the homes of employers creates special problems, including the risk of abuse and exploitation. The majority of domestic or household employees in New York City are immigrant women of color who, because of race and sex discrimination, language barriers and immigration status, are particularly vulnerable to unfair labor practices. Encouraging responsible practices with respect to the placement of domestic or household employees is in the interests of employees, employment agencies, employers and the public.

. . . . . §3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

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NYC Administrative Code 20-770

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 14*129 IMMIGRATION ASSISTANCE SERVICES

§ 20-770 Definitions.

For the purpose of this subchapter, the following terms have the following meanings:

a. "Immigration assistance service" means providing any form of assistance, in the city of New York, for a fee or other compensation, to persons who have come, or plan to come to the United States from a foreign country, or their representatives, in relation to any proceeding, filing or action affecting the non-immigrant, immigrant or citizenship status of a person, which arises under the immigration and nationality law, executive order or presidential proclamation, or which arises under actions or regulations of the United States citizenship and immigration services, the United States department of labor, or the United States department of state.

b. "Provider" means any person, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that provides immigration assistance services, but shall not include:

1. any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law, or any person working directly under the supervision of the person admitted;

2. any tax-exempt, not-for-profit organization that provides immigration assistance services without a fee or

other payment from individuals or at nominal fees as defined by the federal board of immigration appeals and any employee of such organization acting within the scope of his or her employment;

3. any organization recognized by the federal board of immigration appeals that provides immigration assistance services via representatives accredited by such board to appear before the bureau of citizenship and immigration services and/or executive office for immigration review, that does not charge a fee or charges nominal fees as defined by the board of immigration appeals;

4. any authorized agency under subdivision ten of section three hundred seventy-one of the New York state social services law and the employees of such organization when acting within the scope of such employment;

5. any elected official who, acting within the scope of his or her official capacity, without a fee or other payment makes inquiries on behalf of an individual to the United States citizenship and immigration services, the United States department of labor, the United States department of state or any other government authority responsible for administering any program, law or regulation affecting the non-immigrant, immigrant or citizenship status of a person; or

6. any employee of the office of the mayor or an executive agency of the city of New York who, acting within the scope of his or her capacity as an employee of the office of the mayor or an executive agency of the city of New York, without a fee or other payment makes inquires on behalf of an individual to the United States citizenship and immigration services, the United States department of labor, the United States department of state or any other government authority responsible for administering any program, law or regulation affecting the non-immigrant, immigrant or citizenship status of a person.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14

footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

Section 1. Declaration of legislative findings and intent. Persons who assist individuals with immigration matters have a significant impact on the ability of their clients to live and work within the United States and to establish and maintain stable families and business relationships. Given the size of New York City's immigrant community, providers of immigration assistance services have a significant impact on cultural, social and economic life in this city. Presently, minimal regulation of persons who provide immigration assistance services leaves persons who require assistance with immigration matters vulnerable to abuse and unscrupulous practices. The purpose of this legislation is to give immigrants a clear understanding of the work to be performed by providers of immigration assistance services and to promote honesty and fair dealing among providers of immigration assistance services.

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SUBCHAPTER 14*129 IMMIGRATION ASSISTANCE SERVICES

§ 20-771 Prohibited conduct.

In the course of providing immigration assistance services, no provider may:

a. State or imply that the person can or will obtain special favors from or has special influence with the bureau of citizenship and immigration services or any other governmental entity, or threaten to report the client to immigration or other authorities or undermine in any way the client's immigration status or attempt to secure lawful status;

b. Demand or retain any fees or compensation for services not performed, or costs that are not actually incurred;

c. Fail to provide a customer with copies of documents filed with a governmental entity or refuse to return original documents supplied by, prepared on behalf of, or paid for by the customer, upon the request of the customer, or upon termination of the contract. Original documents must be returned promptly upon request and upon cancellation of the contract, even if there is a fee dispute between the immigration assistance provider and the customer;

d. Assume, use or advertise the title of lawyer or attorney at law, or equivalent terms in the English language or any other language, or represent or advertise other titles or credentials, including but not limited to "Notary Public", "Accredited Representative of the Board of Immigration Appeals" or "Immigration Consultant," that could cause a customer to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided that a notary public licensed by the secretary of state may use the term "Notary Public";

e. Give any legal advice concerning an immigration matter or otherwise engage in the practice of law;

f. Make any guarantee or promise to a customer, unless there is a basis in fact for such representation, and the guarantee or promise is in writing; g. Represent that a fee may be charged, or charge a fee for the distribution, provision or submission of any official document or form issued or promulgated by a state or federal governmental entity, or for a referral of the customer to another person or entity that is qualified to provide services or assistance which the immigration assistance service provider will not provide;

h. Disclose any information to, or file any forms or documents with, immigration or other authorities without the knowledge or consent of the customer.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14

footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

Section 1. Declaration of legislative findings and intent. Persons who assist individuals with immigration matters have a significant impact on the ability of their clients to live and work within the United States and to establish and maintain stable families and business relationships. Given the size of New York City's immigrant community, providers of immigration assistance services have a significant impact on cultural, social and economic life in this city. Presently, minimal regulation of persons who provide immigration assistance services leaves persons who require assistance with immigration matters vulnerable to abuse and unscrupulous practices. The purpose of this legislation is to give immigrants a clear understanding of the work to be performed by providers of immigration assistance services and to promote honesty and fair dealing among providers of immigration assistance services.

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SUBCHAPTER 14*129 IMMIGRATION ASSISTANCE SERVICES

§ 20-772 Written Agreement.

No immigration assistance services shall be provided until the customer has executed a written contract with the provider who will provide such services. The contract shall be in a language understood by the customer, either alone or with the assistance of an available interpreter, and, if that language is not English, an English language version of the contract must also be provided. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. The customer has the right to cancel the contract within three business days after his or her execution of the contract, without fee or penalty. The right to cancel the contract within three days without payment of any fee may be waived when services must be provided immediately to avoid a forfeiture of eligibility or other loss of rights or privileges, and the customer furnishes the provider with a separate dated and signed statement, by the customer or his or her representative, describing the need for services to be provided within three days and expressly acknowledging and waiving the right to cancel the contract within three days. The contract may be cancelled at any time after execution. If the contract is cancelled after three days, or within three days if the right to cancel without fee has been waived, the provider may retain fees for services rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen days after cancellation. The written contract shall be in plain language, in at least twelve point type and shall include the following:

1. The name, address and telephone number of the provider.

2. Itemization of all services to be provided to the customer, as well as the fees and costs to be charged to the

customer.

3. A statement that original documents required to be submitted in connection with an application made to the federal bureau of citizenship and immigration services or for other certifications, benefits or services provided by government may not be retained by the provider for any reason, including payment of fees or costs.

4. A statement that the provider shall give the customer a copy of each document filed with a governmental entity.

5. A statement that the customer is not required to obtain supporting documents through the provider, but may obtain such documents himself or herself.

6. The statement: "You have three (3) business days to cancel this contract. Notice of cancellation must be in writing, signed by you and mailed by registered or certified United States mail to (specify address). If you cancel this contract within three days, you will get back your documents and any fees that you paid."

7. A statement that the provider has financial surety in effect for the benefit of any customer in the event that the customer is owed a refund, or is damaged by the actions of the provider, together with the name, address and telephone number of the surety.

8. The statement: "The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the board of immigration appeals to provide representation to you before the bureau of citizenship and immigration services, the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice."

9. The statement: "The individual providing assistance to you under this contract is prohibited from disclosing any information or filing any forms or documents with immigration or other authorities without your knowledge and consent."

10. The statement: "A copy of all forms completed and documents accompanying the forms shall be kept by the service provider for three years. A copy of the customer's file shall be provided to the client on demand and without fee."

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14

footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

Section 1. Declaration of legislative findings and intent. Persons who assist individuals with immigration matters have a significant impact on the ability of their clients to live and work within the United States and to establish and maintain stable families and business relationships. Given the size of New York City's immigrant community, providers of immigration assistance services have a significant impact on cultural, social and economic life in this city. Presently, minimal regulation of persons who provide immigration assistance services

leaves persons who require assistance with immigration matters vulnerable to abuse and unscrupulous practices. The purpose of this legislation is to give immigrants a clear understanding of the work to be performed by providers of immigration assistance services and to promote honesty and fair dealing among providers of immigration assistance services.

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SUBCHAPTER 14*129 IMMIGRATION ASSISTANCE SERVICES

§ 20-773 Posting of Signs.

a. A provider must post signs at every location where that provider meets with customers that states the following: "THE INDIVIDUAL PROVIDING ASSISTANCE TO YOU UNDER THIS CONTRACT IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION TO YOU BEFORE THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." A separate sign shall be posted in a location visible to customers in conspicuous size type and which contains the schedule of fees for services offered and the statement: "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND GET BACK YOUR DOCUMENTS AND ANY MONEY YOU PAID."

b. Signs required by this section must be at least 11 inches by 17 inches and must be posted in a conspicuous location in English and in every other language in which immigration assistance services are provided at the location.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

Section 1. Declaration of legislative findings and intent. Persons who assist individuals with immigration matters have a significant impact on the ability of their clients to live and work within the United States and to establish and maintain stable families and business relationships. Given the size of New York City's immigrant community, providers of immigration assistance services have a significant impact on cultural, social and economic life in this city. Presently, minimal regulation of persons who provide immigration assistance services leaves persons who require assistance with immigration matters vulnerable to abuse and unscrupulous practices. The purpose of this legislation is to give immigrants a clear understanding of the work to be performed by providers of immigration assistance services and to promote honesty and fair dealing among providers of immigration assistance services.

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§ 20-774 Advertisements.

a. Every provider who advertises immigration assistance services by signs, pamphlets, newspapers or any other means shall post or otherwise include with the advertisement a notice in English and in the language in which the advertisement appears. The notice must be of a conspicuous size and must state: "The individual providing assistance to you is not an attorney licensed to practice law or accredited by the board of immigration appeals to provide representation to you before the bureau of citizenship and immigration services, the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice."

b. No advertisement for immigration assistance services may expressly or implicitly guarantee any particular government action, including but not limited to the granting of residency or citizenship status.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

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§ 20-775 Document Retention.

Every provider shall retain copies of all documents prepared or obtained in connection with a customer's request for assistance for a period of three years after a written contract is executed by the provider and the customer, whether or not such contract is subsequently cancelled.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

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§ 20-776 Surety.

Unless otherwise required by New York State law, every provider must maintain in full force and effect a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the city of New York, in the principal amount of fifty thousand dollars. Such surety shall be for the benefit of any person who does not receive a refund of fees from the provider to which he or she is entitled, or is otherwise injured by the provider. The Commissioner on behalf of the person or the person in his or her own name may maintain an action against the provider and the surety.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

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§ 20-777 Penalties.

a. (1) Criminal Penalties. Any provider who violates any provision of this subchapter shall be guilty of a class A misdemeanor.

(2) Civil Penalties. Any provider of immigration assistance services who violates any provision of this subchapter or any rule or regulation promulgated hereunder shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than two thousand five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than five thousand dollars.

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of this section shall be commenced by the service of a notice of violation that shall be returnable to the administrative tribunal of the department of consumer affairs.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

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§ 20-778 Civil Cause of Action.

Any person claiming to be injured by the failure of a provider of immigration assistance services to comply with the provisions of this subchapter shall have a cause of action against such provider of immigration assistance services in any court of competent jurisdiction for any or all of the following relief:

a. compensatory and punitive damages;

b. injunctive and declaratory relief;

c. attorney's fees and costs; and

d. such other relief as a court deems appropriate.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

FOOTNOTES

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

Section 1. Declaration of legislative findings and intent. Persons who assist individuals with immigration matters have a significant impact on the ability of their clients to live and work within the United States and to establish and maintain stable families and business relationships. Given the size of New York City's immigrant community, providers of immigration assistance services have a significant impact on cultural, social and economic life in this city. Presently, minimal regulation of persons who provide immigration assistance services leaves persons who require assistance with immigration matters vulnerable to abuse and unscrupulous practices. The purpose of this legislation is to give immigrants a clear understanding of the work to be performed by providers of immigration assistance services and to promote honesty and fair dealing among providers of immigration assistance services.

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§ 20-779 Rules.

The commissioner may promulgate such rules and regulations as are necessary for the purposes of implementing and carrying out the provisions of this subchapter. Upon a finding by the commissioner that the requirements of state law applicable to providers of immigration services are substantially the same as the requirements of this subchapter, compliance with state law shall be deemed to be compliance with the requirements of this subchapter.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

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§ 20-780 Severability.

If any131 section, subsection, sentence, clause, phrase or other portion of this subchapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

HISTORICAL NOTE

Section added L.L. 31/2004 § 2, eff. Oct. 10, 2004. [See Subchapter 14 footnote]

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[Footnote 129]: * There are two subchapter 14s. This Subchapter 14 added L.L. 31/2004 § 2, eff. Oct. 10, 2004. Note provisions of L.L. 31/2004:

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131

[Footnote 131]: ** There are 2 sections 20-780.

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§ 20-780 Definitions.

a. "Person"133 shall mean any individual, firm, partnership, trust, association, corporation or other legal entity. This term shall not include any individual, firm, partnership, trust, association, corporation or other legal entity that accepts federally insured deposits, such as national banks, state-chartered banks, or savings and loan associations, or any individual, firm, partnership, trust, association, corporation or other legal entity regulated by or subject to the rules and regulations of the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation or Office of Thrift Supervision of the Department of the Treasury.

b. "Payday loan," also known as, among other terms, "deferred deposit advances," "cash on demand" or "cash advance," shall mean any transaction in which funds are provided to a consumer for a limited time period in exchange for (i) a consumer's personal check or share draft, in the amount of the funds provided to the consumer plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or (ii) a consumer's authorization to debit the consumer's transaction account, in the amount of the funds provided to the consumer plus a fee, where such account will be debited on or after a designated future date.

HISTORICAL NOTE

Section added L.L. 15/2005 § 2, eff. Apr. 1, 2005. [See Subchapter 15

footnote]

FOOTNOTES

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[Footnote 132]: ** There are two subchapters 15. Subchapter 15 added L.L. 15/2005 § 2, eff. Apr. 1, 2005. Note provisions of L.L. 15/2005:

Section 1. Legislative declaration. The Council finds that certain payday lenders may be unfairly taking advantage of New Yorkers throughout the City. These lenders, which can conduct business as storefront establishments, by mail, electronic, the Internet, or telephonic means, often charge high interest rates and fees for short-term loans. Accordingly, low-income New Yorkers may become trapped in burdensome high-interest loans.

State law and federal regulations, including provisions of the U.S.C.A. and C.F.R., extensively govern the operating procedures and lending requirements of state and federally chartered lending institutions. Further, federal regulations enable state and federally chartered banks to export their home usury caps, if any, to states in which those institutions issue loans.

Without limiting in any manner the scope of this subchapter, the Council declares that it is the general intent of this subchapter to reiterate that in the city of New York, some of the practices in activities commonly referred to as payday lending, deferred deposit advances, cash on demand, or cash advance services and other similar activities are currently illegal, subject to the exemption of certain entities by federal law, and to strengthen the penalties for those engaging in such activities.

The Council finds that companies not subject to state and federal regulatory policies that elect to engage in the practice of payday lending must clearly disclose the terms of their loans to otherwise uninformed consumers. Accordingly, the Council intends to take action where permissible and require lenders to provide a disclosure notice to each would-be borrower so that he or she has a clear sense of the lender's operations and intentions. In addition, the Council is requiring such payday lenders to provide both the Department of Consumer Affairs and the Council with demographic information on the individuals taking out payday loans to ensure better tracking and public education in the future.

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[Footnote 133]: ** There are 2 sections 20-780.

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§ 20-781 Disclosure of loan information.

Before any consumer enters into a payday loan, the person offering, providing, or facilitating such loan shall provide to the consumer in writing all disclosure required pursuant to the federal Truth in Lending Act in addition to the following disclosure, in English and Spanish, in at least 20-point type:

o YOU ARE NOT REQUIRED TO ENTER INTO THIS PAYDAY LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

o IF YOU DO SIGN A CONTRACT FOR A PAYDAY LOAN, YOU WILL BE TAKING OUT A LOAN. YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES.

o IF YOU CANNOT PAY OFF THIS LOAN IN FULL, THE LENDER MIGHT NOT PERMIT YOU TO MAKE A PARTIAL PAYMENT. IN THAT SITUATION, YOU MAY BE REQUIRED TO TAKE OUT AN ADDITIONAL PAYDAY LOAN TO PAY OFF YOUR INITIAL DEBT.

o EACH TIME YOU EXTEND THIS PAYDAY LOAN OR TAKE OUT AN ADDITIONAL PAYDAY LOAN, YOU WILL BE CHARGED ADDITIONAL COSTS AND FEES.

o IF YOU DO TAKE OUT THIS PAYDAY LOAN, YOU WILL BE RESPONSIBLE TO PAY $ [insert amount] IN FINANCE CHARGES FOR THE LOAN. AFTER THESE FINANCE CHARGES ARE PAID, YOU WILL RECEIVE APPROXIMATELY $ [insert amount] AS YOUR LOAN.

o THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR PAYDAY LOAN IS [insert amount]%. THIS IS THE COST OF YOUR CREDIT AT A YEARLY RATE.

It shall be the obligation of the person offering, providing, or facilitating the payday loan to complete the required disclosure accurately with all relevant information for each consumer and to ensure that the completed disclosure form is signed by the consumer before he or she enters into the payday loan.

HISTORICAL NOTE

Section added L.L. 15/2005 § 2, eff. Apr. 1, 2005. [See Subchapter 15

footnote]

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[Footnote 132]: ** There are two subchapters 15. Subchapter 15 added L.L. 15/2005 § 2, eff. Apr. 1, 2005. Note provisions of L.L. 15/2005:

Section 1. Legislative declaration. The Council finds that certain payday lenders may be unfairly taking advantage of New Yorkers throughout the City. These lenders, which can conduct business as storefront establishments, by mail, electronic, the Internet, or telephonic means, often charge high interest rates and fees for short-term loans. Accordingly, low-income New Yorkers may become trapped in burdensome high-interest loans.

State law and federal regulations, including provisions of the U.S.C.A. and C.F.R., extensively govern the operating procedures and lending requirements of state and federally chartered lending institutions. Further, federal regulations enable state and federally chartered banks to export their home usury caps, if any, to states in which those institutions issue loans.

Without limiting in any manner the scope of this subchapter, the Council declares that it is the general intent of this subchapter to reiterate that in the city of New York, some of the practices in activities commonly referred to as payday lending, deferred deposit advances, cash on demand, or cash advance services and other similar activities are currently illegal, subject to the exemption of certain entities by federal law, and to strengthen the penalties for those engaging in such activities.

The Council finds that companies not subject to state and federal regulatory policies that elect to engage in the practice of payday lending must clearly disclose the terms of their loans to otherwise uninformed consumers. Accordingly, the Council intends to take action where permissible and require lenders to provide a disclosure notice to each would-be borrower so that he or she has a clear sense of the lender's operations and intentions. In addition, the Council is requiring such payday lenders to provide both the Department of Consumer Affairs and the Council with demographic information on the individuals taking out payday loans to ensure better tracking and public education in the future.

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NYC Administrative Code 20-782

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§ 20-782 Consumer information.

Not later than the first day of February of the year two thousand and five and on a quarterly basis thereafter, not later than February first, May first, August first, and November first of each year, any person offering, providing, or facilitating a payday loan in New York city shall submit to the department of consumer affairs and the council the residential zipcode of each consumer who lives within the city boundaries and has entered into a payday loan during the immediately preceding quarter.

HISTORICAL NOTE

Section added L.L. 15/2005 § 2, eff. Apr. 1, 2005. [See Subchapter 15 footnote]

FOOTNOTES

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[Footnote 132]: ** There are two subchapters 15. Subchapter 15 added L.L. 15/2005 § 2, eff. Apr. 1,

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State law and federal regulations, including provisions of the U.S.C.A. and C.F.R., extensively govern the operating procedures and lending requirements of state and federally chartered lending institutions. Further, federal regulations enable state and federally chartered banks to export their home usury caps, if any, to states in which those institutions issue loans.

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§ 20-783 Penalties.

Any person who shall violate any of the provisions of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars for each violation.

HISTORICAL NOTE

Section added L.L. 15/2005 § 2, eff. Apr. 1, 2005. [See Subchapter 15 footnote]

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§ 20-784 Hearing authority.

(1) Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this subchapter. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-783 of this subchapter for each such violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

HISTORICAL NOTE

Section added L.L. 15/2005 § 2, eff. Apr. 1, 2005. [See Subchapter 15 footnote]

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State law and federal regulations, including provisions of the U.S.C.A. and C.F.R., extensively govern the operating procedures and lending requirements of state and federally chartered lending institutions. Further, federal regulations enable state and federally chartered banks to export their home usury caps, if any, to states in which those institutions issue loans.

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NYC Administrative Code 20-800

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SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-800 Definitions.

a. "Child care provider" means any individual, association, corporation, partnership, institution, organization or agency that has obtained a license, registration certificate or permit, pursuant to section 390 of the New York state social services law or articles 5 and 47 of title 24 of the rules of the city**135 New York, to provide child day care services or to operate a facility where child day care is provided.

b. "Child care inspection report" means either a summary day care service inspection report or any report issued by a regulatory authority in the state of New York regarding a child care provider.

c. "License" means a document issued by the New York state office of children and family services authorizing a child care provider to operate a group family day care home in accordance with state law and regulation.

d. "Parent" means custodial parent(s), legal guardian(s), other persons having legal custody of a child or any other person with whom a child lives who has assumed responsibility for the day-to-day care and custody of the child.

e. "Permit" means a document issued by the New York city department of health and mental hygiene authorizing a day care services provider to operate a day care service in accordance with local law and regulation.

f. "Registration" means a document issued by the New York state office of children and family services

authorizing a child care provider to operate family day care program or a school-age child care program in accordance with state law and regulation.

g. "Summary day care service inspection report" is a document that includes, at a minimum, the following information:

(1) the name of the day care service;

(2) the name of the day care service permittee;

(3) the day care service permit number and expiration date;

(4) the address of the day care service;

(5) the date of inspection;

(6) the maximum number of children authorized to be present at any one time as specified in the day care service permit;

(7) any violations identified by the department during the inspection;

(8) whether a permit was ordered suspended or revoked in the past 24 months; and

(9) whether a day care service was ordered closed because its continued operation represented a danger to the health or safety of children; and the terms and conditions, if any, under which such day care service has been allowed to reopen and is authorized to operate.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

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[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

135

[Footnote 135]: ** "of" missing.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-801

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-801 Posting of information.

Every child care provider must post a sign in a conspicuous place near its public entrance or entrances stating that the most recent child care inspection report for the provider may be accessed through the website of the department of health and mental hygiene or the website of the New York state office of children and family services. At a minimum, the sign must contain the name of the child care provider, the address and license or registration number of the child care provider and maximum capacity of the child care facility and the number of staff employed by the child care facility as required by law or regulation. The sign must be printed in clear and legible type, in such a manner as to be readily visible to customers and must indicate how to gain access to child care inspection reports through the department's website.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-802

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-802 Informational materials.

Every child care provider must include, along with informational or application materials, a copy of the most recent summary day care service inspection report. In addition, informational or application materials furnished to parents and prospective parents shall explicitly state the maximum capacity of the child care facility and the number of staff employed by the child care facility as required by law or regulation.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-803

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-803 Notice of violations.

Any child care provider that has been notified by the New York state office of children and family services or by the New York city department of health and mental hygiene that it has been cited for having a serious violation of licensing, registration or permit requirements of either section 390 of the New York state social services law or the regulations promulgated thereunder or articles 5 and 47 of title 24 of the New York city health code, must notify the parents of children receiving care from the child care provider that the child care provider is in violation of the licensing, registration or permit requirements within 24 hours of receiving such notification. The requirement of this provision may be satisfied by posting a sign on the front door of the child care facility for at least one week after such notification or by furnishing a copy of the report specifically noting the violation to all parents of children receiving care from the child care provider.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

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NYC Administrative Code 20-804

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-804 Penalties.

Any child care provider who violates any provision of this subchapter or any rule or regulation promulgated hereunder shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars for each violation.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-805

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-805 Rules.

The commissioner shall have the authority to promulgate such rules and regulations as the commissioner shall deem necessary to implement the provisions of this subchapter.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-806

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 5 UNFAIR TRADE PRACTICES

SUBCHAPTER 15*134 DISCLOSURE OF INFORMATION BY CHILD CARE FACILITIES

§ 20-806 Severability.

If any section, subsection, sentence, clause, phrase or other portion of this subchapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

HISTORICAL NOTE

Section added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

FOOTNOTES

134

[Footnote 134]: ** There are two subchapters 15. Subchapter 15 added L.L. 23/2005 § 1, eff. Sept. 5, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-900

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-900 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

1. "Clinic" shall mean any private, non-residential medical facility or practice, other than a hospital as defined in article 28 of the public health law, which provides health care services in the city of New York relating to injuries sustained as a result of motor vehicle accidents.

2. "Control", including the terms "controlling", "controlled by" and "under common control by or with", shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an institution, whether through ownership of voting securities, by contract or otherwise.

3. "Health care provider" shall mean any physician or other health care professional, including, but not limited to, dentists, nurses, x-ray technicians, physical or occupational therapists, massage therapists, acupuncturists, chiropractors and mental health service professionals, licensed to practice in New York state.

4. "Health care services" shall mean any health or mental health services provided by a health care provider relating to injuries sustained as a result of an actual or alleged motor vehicle accident, including but not limited to medical, hospital, surgical, nursing, dental, ambulance, x-ray, diagnostic, prescription drug, prosthetic, psychiatric, massage, acupuncture, chiropractic, and physical or occupational therapy and rehabilitation services.

5. "Insured" shall mean any person who owns a policy of insurance issued by a no-fault motor vehicle insurer that insures against losses or liabilities arising out of the ownership, operation, or use of a motor vehicle.

6. "Medical benefits" shall mean full or partial payments for health care services.

7. "Motor vehicle" shall mean any vehicle operated upon a public highway or public street propelled by any power other than muscular power.

8. "No-fault insurance medical clinic" shall mean any clinic that is subject to the requirements of this chapter.

9. "No-fault motor vehicle insurance medical claim" shall mean any claim for medical benefits submitted to a no-fault motor vehicle insurer under a policy issued by such no-fault motor vehicle insurer pursuant to article 51 of the New York state insurance law, which provides "first party benefits" as that term is defined in section 5102 (b) of such article.

10. "No-fault motor vehicle insurer" shall mean any insurer, company, corporation, partnership or other individual or entity authorized to transact or transacting business in New York state, or controlling or controlled by or under common control by or with such insurer, company, corporation, partnership or other individual or entity, which sells policies of insurance that insure against losses or liabilities arising out of the ownership, operation, or use of a motor vehicle.

11. "Owner" shall mean any owner, manager, operator or other person or persons having control of a clinic and any authorized agent thereof.

12. "Runner" shall mean any person who, for a pecuniary benefit, procures or attempts to procure a client, patient or customer when such person knows, or a reasonable person would know, that the purpose of an owner of a no-fault motor vehicle insurance medical clinic is to falsely or fraudulently: (i) obtain medical benefits from a no-fault motor vehicle insurer; or (ii) assert a claim against an insured or a no-fault motor vehicle insurer for the provision of health care services to such client, patient or customer; provided, however, that such term shall not include a person who procures or attempts to procure clients, patients or customers through public media or a person who refers clients, patients or customers as authorized by law. Nothing in this chapter shall be deemed to prohibit an agent, broker or employee of a health maintenance organization from seeking to sell health maintenance organization coverage or health insurance coverage to any individual or group.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6

footnote]

FOOTNOTES

137

[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim.

However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-901

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-901 Reports.

a. Where fifty percent or more of the billings for medical benefits filed by any clinic within the preceding twelve months were no-fault motor vehicle insurance medical claims, the owner of such clinic shall submit a report to the department pursuant to paragraph c of this subdivision.*138

b. Where fifty percent or more of the billings for medical benefits filed by all clinics owned by the same owner within the preceding twelve months were no-fault motor vehicle insurance medical claims, the owner of such clinics shall submit a report to the department pursuant to paragraph c of this subdivision.*

c. Beginning December 1, 2006, any report to the department required by this section shall include: (i) the name, physical address and telephone number of each clinic under the control of such clinic's owner; (ii) the name, address and telephone number of all owners of each clinic; (iii) the name, address and telephone number of any management company hired by each clinic, if applicable; and (iv) the percentage of total medical bills filed within the preceding twelve months that were no-fault motor vehicle insurance medical claims, disaggregated by clinic, where applicable. Any owner of a no-fault insurance medical clinic shall attach to such report a sworn statement stating that: (1) within the preceding twelve months, no-fault motor vehicle insurance claims comprised fifty percent or more of the total billings of an individual clinic or all clinics owned by such owner; provided, however, that the department shall not require disclosure of the actual amount of no-fault insurance medical claims billed by any such clinic; and (2) such clinic does not use, solicit, direct, hire or employ any runners.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6 footnote]

FOOTNOTES

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[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim. However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

138

[Footnote 138]: * Should be "subdivision c of this section".

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-902

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-902 Prohibited acts.

a. No owner of a no-fault insurance medical clinic shall use, solicit, direct, hire or employ any runner.

b. No person shall act as a runner.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6 footnote]

FOOTNOTES

137

[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher

than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim. However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

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Administrative Code of the City of New York

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NYC Administrative Code 20-903

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-903 Rules.

The commissioner shall promulgate any rules as may be necessary for the purposes of implementing and enforcing this chapter.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6 footnote]

FOOTNOTES

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[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault

median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim. However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

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NYC Administrative Code 20-904

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-904 Violations and penalties.

a. Any person who violates section 20-901 of this chapter shall be subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation; provided, however, that the commissioner shall issue a written warning in lieu of a civil penalty where the commissioner finds that such person violated such section due to his or her reasonable belief that the percentage of billings for no-fault motor vehicle insurance medical claims filed by his or her clinic or clinics was not at or above fifty percent during the preceding twelve months.

b. Any person who violates paragraph a*139 of section 20-902 of this chapter shall be guilty of a misdemeanor and shall be subject to a civil penalty of not less than ten thousand dollars for each runner used, solicited, directed, hired or employed, or a term of imprisonment not to exceed one year, or both.

c. Any person who violates paragraph b**140 of section 20-902 of this chapter shall be guilty of a misdemeanor and shall be subject to a civil penalty of not less than ten thousand dollars for each violation, or a term of imprisonment not to exceed one year, or both.

d. Nothing in this section shall be construed to limit the imposition of any other penalty that may be imposed pursuant to any other law, rule or regulation.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6

footnote]

FOOTNOTES

137

[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim. However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

139

[Footnote 139]: ** Should be "subdivision a".

140

[Footnote 140]: ** Should be "subdivision b".

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-905

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 6 NO-FAULT INSURANCE MEDICAL CLINICS*137

§ 20-905 Enforcement.

The department shall enforce the provisions of this chapter. A proceeding to recover any civil penalty authorized pursuant to section 20-904 of this chapter shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. The administrative tribunal shall have the power to render decisions and to impose the remedies and penalties provided for in section 20-904 of this chapter, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

HISTORICAL NOTE

Section added L.L. 11/2006 § 2, eff. Aug. 9, 2006. [See Chapter 6 footnote]

FOOTNOTES

137

[Footnote 137]: * Chapter 6 added L.L. 11/2006 § 2, eff. Aug. 9, 2006. Note further provisions of such

local law:

Section 1. Legislative findings and intent. The Council finds that fraud in the State's no-fault automobile insurance system is a significant and costly problem. According to a 2000 report of the Insurance Information Institute, no-fault automobile insurance medical claims are filed in New York State at a rate that is 30% higher than the nationwide no-fault median, and the State's average cost per claim is greater than twice the no-fault median. Recent changes in New York State law, which reduced the time in which a no-fault medical claim or accident may be reported, have resulted in a decrease in the number of claims and the average cost per claim. However, such changes in the law did not help identify and monitor the perpetrators of no-fault motor vehicle insurance fraud, or prohibit activities, such as the hiring of "runners," that enable such fraudulent activities to continue.

The Council finds that abuse of the no-fault automobile insurance system has led to higher automobile insurance costs in New York City, particularly in Brooklyn. According to an October 2004 report issued by a task force established by the Brooklyn Borough President's Office, it is generally accepted that Brooklyn experiences among the highest automobile insurance rates in the country. The Council finds that medical clinics that are primarily established for the purpose of engaging in fraudulent activity with respect to no-fault motor vehicle insurance are an essential element in perpetrating the fraudulent scheme and contributing to the high automobile insurance costs in New York City. The Council therefore finds that medical clinics that bill high amounts of no-fault insurance medical treatment claims should be monitored through periodic reporting requirements and prohibited from engaging "runners" to procure additional patients.

. . . . . § 3. Severability. If any subdivision, sentence, clause, phrase or other portion of the local law that added this chapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this chapter, which remaining portions shall remain in full force and effect.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-910

Administrative Code of the City of New York

Title 20 Consumer Affairs

CHAPTER 7 ENERGY*144

§ 20-910 Air conditioning prohibitions.

a. For the purposes of this section, the following terms shall have the following meanings:

1. "Chain of stores" shall mean five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

2. "Commercial building or structure" shall mean an building or structure classified in accordance with section BC 302 of the New York city building code in occupancy group B or M, except that such term shall not include a small store.

3. "Door" shall mean any door used to close off any exterior entrance to a commercial building or structure and that when open allows for the co-mingling of indoor and outdoor air, but shall not include doors that (i) adjoin indoor seating areas where food or beverages are served and link such areas to outdoor space or outdoor seating areas, or (ii) allow for direct table service of food or beverages to outdoor seating areas during times when servers are actively engaged in serving such areas.

4. "Person" shall mean (i) with respect to the portion of a commercial building or structure that is a retail or wholesale establishment that sells goods or provides services to consumers, the owner or lessee of such establishment; and (ii) with respect to any other portion of a commercial building or structure, the record owner or lessee of such building or structure.

5. "Small store" shall mean a retail or wholesale establishment that sells goods or provides services to consumers and occupies under four thousand square feet of retail or wholesale space, excluding storage space, and is not one of a chain of stores.

b. Except as provided in subdivision c of this section, it shall be unlawful to keep open any exterior door of a commercial building or structure while an air conditioner or central cooling system is operating that cools the area adjacent to such door, except as needed to permit the ingress and egress of people and the delivery and shipping of goods.

c. The provisions of this section shall not apply when an emergency situation exists that requires an exterior door to be kept open.

d. The department shall have the authority to enforce the provisions of subdivision b of this section. A proceeding to recover any civil penalty prescribed by subdivision e of this section shall be commenced by the service of a notice of violation, which shall be returnable to the environmental control board. The environmental control board shall have the power to impose any civil penalty prescribed by subdivision e of this section.

e. Any person who violates this section shall receive a written warning for the first violation, and shall be liable for a civil penalty in the amount of two hundred dollars for each open door for a second violation within an eighteen month period and four hundred dollars for each open door for any third and subsequent violation within an eighteen month period.

HISTORICAL NOTE

Section added L.L. 38/2008 § 2, eff. Dec. 2, 2008. [See Note 1]

NOTE

1. Provisions of L.L. 38/2008:

Section 1. Legislative findings and intent. The Council finds that it is the public policy of the City of New York to conserve energy, reduce peak power demands during hot weather periods and limit environmental pollution and local contributions to global warming. Prohibiting commercial establishments from leaving their doors ajar while air conditioners or central cooling systems are on is a sensible energy conservation measure. According to the Long Island Power Authority, the practice of leaving open doors while air conditioners or central cooling systems are operating can increase the amount of electricity used by establishments by 20 to 25 percent. The Council finds that such practices increase power plant related pollution and place heightened energy demands on local utilities during hot summer months, when excessive energy consumption can lead to power shortages.

NYC Administrative Code 20-950

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-950 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

a. "Affiliate" shall mean (i) a business entity in which twenty-five percent or more is owned, or is subject to a power or right of control or a power to vote, or is managed by, a shipboard gambling business, or (ii) a business entity that owns twenty-five percent or more of a shipboard gambling business, or that exercises a power or right of control or a power to vote over twenty-five percent or more of a shipboard gambling business, or that manages a shipboard gambling business.

b. "Applicant" shall mean, if a business entity submitting an application for a license pursuant to this chapter, the entity and each principal thereof; if an individual submitting an application for a license, certificate of approval or registration pursuant to this chapter, such individual.

c. "Business entity" shall mean a corporation, partnership, limited liability company, individual or sole proprietorship.

d. "Certificate of approval" shall mean a certificate issued by the commission pursuant to the provisions of this chapter approving the employment in a shipboard gambling business of a gambling employee or agent.

e. "Commission" shall mean the New York city gambling control commission established pursuant to section 20-951 of this chapter.

f. "Gambling" shall mean any contest, game, gaming scheme or other activity in which a person stakes or risks something of value upon the outcome of a contest involving an element of chance or a future contingent event not under his or her control or influence, upon the understanding that he or she will receive something of value in the event of a certain outcome.

g. "Gambling device" shall mean a slot machine or any other machine or mechanical device which when operated may deliver or entitle a person to receive, as the result of the application of an element of chance, any money or property.

h. "Gambling employee or agent" shall mean a person employed in a shipboard gambling business who is not a key employee or agent and whose duties include (i) the conduct, operation or facilitation of gambling, whether or not involving the use of a gambling device; or (ii) the repair or maintenance of a gambling device. "Gambling employee or agent" shall include, but not be limited to, boxmen, dealers or croupiers, floormen, gambling machine mechanics, casino security personnel, count room personnel, cage personnel, slot machine and slot booth personnel, collection personnel, casino surveillance personnel and data processing personnel. "Gambling employee or agent" may also include any other category of persons identified by rule of the commission whose duties require regular presence in the area or areas of a vessel in which gambling takes place or for whom the commission determines a certificate of approval is appropriate and necessary to effectuate the purposes of this chapter. The job categories specified in such rule shall not include categories of employees, without limitation, such as kitchen personnel, food and beverage servers or vessel's crew, that are not involved in gambling operations.

i. "Key employee or agent" shall mean a person employed in a shipboard gambling business in a supervisory or managerial capacity or empowered to make discretionary decisions regarding such business, including, but not limited to, pit bosses, shift bosses, credit executives, casino cashier supervisors, casino facility managers and assistant managers and managers or supervisors of gambling employees or agents. Key employees shall also include any other category of persons identified by rule of the commission for which the commission determines licensure as a key employee is appropriate and necessary to effectuate the purposes of this chapter.

j. "License" shall mean a shipboard gambling license, a key employee license or a key vendor license issued by the commission pursuant to the provisions of this chapter.

k. "Parent business" or "parent business entity" shall mean a business entity that owns fifty percent or more of another business entity, or that has a power or right of control or power to vote over fifty percent or more of such business entity, or that manages such other business entity.

l. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership or a corporation, the term "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding the equivalent of ten percent or more ownership interest of the applicant business. For the purposes of this chapter: (1) an individual shall be considered to hold stock in a corporation where such individual participates in the operation of or has a beneficial interest in such corporation and such stock is owned directly or indirectly by or for (i) such individual, (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled), (iii) the children, grandchildren and parents of such individual or (iv) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this

section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation. Notwithstanding any other provision of this subdivision, where there is reasonable cause to believe that any owner, officer or director of a business entity with an interest in an applicant business not otherwise within the scope of this subdivision lacks good character, honesty and integrity, the commission may designate such person as a principal for the purposes of sections 20-954, 20-955, 20-956 and 20-959 of this chapter.

m. "Registrant" shall mean a service employee or agent or an auxiliary vendor who has registered with the commission pursuant to the provisions of this chapter.

n. "Service employee or agent" shall mean a person employed in a shipboard gambling business who is not a key employee or agent or a gambling employee or agent.

o. "Shipboard gambling business" shall mean a business in which passengers are transported for the purpose of participating in gambling outside the territorial waters of the United States from a location within New York city and returned to a location within such city; provided that a business shall not be deemed a shipboard gambling business for purposes of this chapter where the gambling cruises or the gambling activities aboard such cruises operated by or on behalf of such business are conducted or proposed to be conducted no more than two times a year or every cruise operated by such business during which gambling activities occur is of at least seventy-two hours duration or where the commission determines, in its discretion, that the gambling offered aboard a vessel owned or operated by such business does not constitute a primary activity conducted aboard such vessel. In reaching a determination that gambling does not constitute a primary activity, the commission shall consider, without limitation, factors including: the passenger capacity of the vessel in relation to the number of gaming positions in the areas in which gambling will occur; the percentage of space devoted to public accommodation in which gambling will occur; the number of hours during which gambling will take place in relation to the total time of the cruise; and the nature of the advertising and other customer solicitation engaged in by the business.

p. "Subsidiary" shall mean any business that is managed by another business entity or any business in which fifty percent or more of the business is owned or in which fifty percent or more of the business is subject to a power or right of control or held with power to vote by another business entity.

q. "Vendor" shall mean any business, except for a business the primary function of which is to provide legal or accounting services or that is required to register as a lobbyist pursuant to section 3-213 of the code or pursuant to the New York state lobbying act (enacted by chapter 1040 of the laws of 1981, as amended) that provides a shipboard gambling business with goods or services used in the operation of such business. "Key vendor" shall mean a vendor, in a category identified by rule of the commission, that furnishes goods or services related to the security operations, gambling operations, gambling equipment, the hiring, supervision or training of gambling employees or agents, the provision of alcoholic beverages, and the provision of food or food services the cost of which exceeds an amount to be set forth by rule of the commission. "Auxiliary vendor" shall mean a vendor, other than a key vendor, that furnishes goods or services to a shipboard gambling business, the cost of which goods or services exceeds an amount to be established for each category of such vendor by rule of the commission, related to maintenance of a vessel or facilities or equipment aboard a vessel, food or non-alcoholic beverages, entertainment or such other activity for which the commission determines by rule that registration is necessary or appropriate to effectuate the provisions of this chapter, provided that the commission may by rule determine that registration of a specific category of auxiliary vendor is unnecessary to achieve the purposes of this chapter. The commission shall by rule list the categories of goods and services and/or the amount of sales of such goods and services that do not require obtaining a key vendor license or an auxiliary vendor registration and may also, in its discretion, waive a requirement for a key vendor license or auxiliary vendor registration upon a determination that such license or registration is unnecessary to achieve the purposes of this chapter. In addition, the commission shall establish, by rule, a procedure whereby a shipboard gambling business may obtain temporary permission, on an expedited basis, to purchase goods or services from an unlicensed or unregistered vendor in a situation where such purchase is necessary to the operation of such business. The commission shall make provision for the issuance of licenses pursuant to sections 20-954 and 20-956 of this chapter to key vendors who furnish

goods or services to shipboard gambling licensees and for the registration pursuant to section 29-955 of auxiliary vendors who furnish goods or services to shipboard gambling licensees. The commission shall maintain a list of all licensed and registered vendors and those vendors to whom a waiver has been granted and shall make such list available upon request.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

Subd. l amended L.L. 27/1998 § 24, eff. Sept. 5, 1998.

CASE NOTES

¶ 1. The court held that the federal Johnson Act (15 U.S.C. § 1175) which formerly prohibited shipboard gambling, does not pre-empt the City from restricting that type of gambling. Padavan v. City of New York, 685 N.Y.S.2d 35 (App.Div. 1st Dept. 1999). Affirms previous writeup.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-951

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-951 New York city gambling control commission.

a. There is hereby created a New York city gambling control commission. Such commission shall consist of five members appointed by the mayor, two of whom shall be appointed after recommendation by the city council. The mayor shall appoint a chair from among the members of the commission. Each member of the commission shall be appointed for a two year term.

b. In the event of a vacancy on the commission during the term of office of a member, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term.

c. The members of the commission shall be compensated on a per diem basis, provided, however, that a member who holds other city office or employment shall receive only the compensation for such office or employment. The chair shall have charge of the organization of the commission and shall have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-952

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-952 Power and duties of the commission.

The commission shall be responsible for the licensing and regulation of shipboard gambling businesses. The powers and duties of the commission shall include, but not be limited to the following:

a. To issue and establish standards for the issuance, renewal, suspension and revocation of licenses, certificates of approval and registrations and waivers therefrom pursuant to this chapter; provided that the commission may by resolution delegate to the chair the authority to make individual determinations regarding the issuance, renewal, suspension and revocation of such licenses, certificates of approval and registrations and the appointment of independent auditors in accordance with the provisions of this chapter, except that a determination to refuse to issue a license, renewal, certificate of approval or registration or to refuse to grant a waiver therefrom pursuant to this chapter shall be made only by a majority vote of the commission.

b. To investigate any matter within the jurisdiction conferred by this chapter, including, but not limited to, any matter that relates to the good character, honesty and integrity of any owner, officer or director of an applicant business entity, or affiliate or subsidiary thereof, irrespective of whether such person is a principal of such business as defined in subdivision l of section 20-950 of this chapter, and to have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other documents and materials relevant to such investigation.

c. To appoint, within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein. In addition to such employees, the commission may request that the commissioner of any other appropriate city agency provide staff and other assistance to the commission in conducting

background investigations for licenses, certificates of approval and registrations pursuant to this chapter in order that such work may be performed efficiently, within existing city resources.

d. To conduct studies or investigations into matters related to gambling in the city and other jurisdictions in order to assist the city in formulating policies relating to the regulation of shipboard gambling.

e. To establish standards for the conduct of shipboard gambling businesses.

f. To set forth requirements necessary to protect the public health, safety and welfare, including but not limited to requirements for the provision of security for patrons on shipboard or on the pier or adjacent area in coordination with appropriate law enforcement authorities, and other measures to provide for the welfare of patrons on such piers and in such areas.

g. To establish standards to protect consumers from fraudulent and misleading advertising and other solicitation of customers for shipboard gambling businesses.

h. To establish fees and promulgate rules as the commission may deem necessary and appropriate to effectuate the purposes and provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

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NYC Administrative Code 20-953

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-953 Licenses, certificates of approval, and registration required.

a. Unless otherwise provided, (i) It shall be unlawful to operate a shipboard gambling business unless such business has first obtained a shipboard gambling license from the commission.

(ii) It shall be unlawful for a shipboard gambling licensee to employ a key employee or agent unless such employee or agent has first obtained a key employee license from the commission pursuant to the provisions of this chapter.

(iii) It shall be unlawful for a shipboard gambling licensee to employ a gambling employee or agent unless such employee or agent has first obtained a certificate of approval from the commission pursuant to the provisions of this chapter.

(iv) It shall be unlawful for a shipboard gambling licensee to employ a service employee or agent unless such employee or agent has first registered with the commission pursuant to the provisions of this chapter.

(v) It shall be unlawful for a shipboard gambling licensee to purchase goods or services from a key vendor or an auxiliary vendor unless such vendor has first obtained a key vendor license or has registered with the commission, whichever is appropriate.

b. A license, certificate of approval or registration issued pursuant to this chapter or any rule promulgated hereunder shall not be transferred or assigned or used by any person or entity other than the licensee, holder of a certificate of approval or registrant to whom it was issued.

c. A license, certificate of approval or registration issued pursuant to this chapter shall be valid for a period of two years and shall, upon proper application for renewal pursuant to rule of the commission setting forth an expeditious procedure for the updating and review of the information required to be submitted by the applicant, be renewable for two year periods thereafter, except that the renewal period for a shipboard gambling license shall be for one year for each of the first two renewal periods succeeding the initial issuance of such license, and thereafter for two years.

d. The commission shall promulgate rules establishing the fees and the manner of payment of fees for any investigation, license, certificate of approval or registration required by this chapter in an amount sufficient to compensate the city for the administrative expense of conducting investigations and issuing or renewing a license, certificate of approval or registration and the expense of inspections and other activities related thereto.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

CASE NOTES

¶ 1. Although federal law (specifically the Gambling Ship Act, 18 USC Sec. 1081 et seq., and the Johnson Act, 15 U.S.C 1171 et seq.) would pre-empt the field so as to prevent New York City from prohibiting shipboard gambling altogether, the federal laws do not prevent the City from establishing a regulation scheme which does not conflict with federal law. The City has a legitimate police power interest in ensuring that gambling is conducted in an honest fashion. Padavan v. City of New York, N.Y.L.J., June 16, 1998, page 27, col. 2 (Sup.Ct. New York Co.), aff'd as modified 258 A.D.2d 266, 685 N.Y.S.2d 35 (1st Dept. 1999).

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Administrative Code of the City of New York

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NYC Administrative Code 20-954

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-954 License application; application for certificate of approval.

a. An applicant for a license or certificate of approval pursuant to this chapter shall submit an application in the form and containing the information prescribed by the commission. An application for a license shall be accompanied by: (i) in the case of any applicant business, a list of the names and addresses of all principals of such business, and, in the case of a shipboard gambling business, all key employees employed or proposed to be employed in the business; and (ii) in the case of a shipboard gambling business, a list of the names of all key and auxiliary vendors and prospective and anticipated key and auxiliary vendors and the names and job titles of all gambling and service employees and agents, prospective gambling and service employees and agents of the applicant business who are or who the applicant proposes to be engaged in the operation of the shipboard gambling business; (iii) such other information as the commission shall determine by rule will properly identify employees and agents and prospective employees and agents; (iv) in the case of a shipboard gambling business, a description, accompanied by diagrams where appropriate, detailing the provisions that will be made by the applicant for security and other measures prescribed for the welfare of patrons by rule of the commission; (v) in the case of a shipboard gambling business, a description of the financial capacity and cash management system of the shipboard gambling business demonstrating the ability of such business to maintain and operate the business responsibly and to provide payment to patrons; and (vi) a form signed by each applicant authorizing the release to the city of financial and other information required by the commission and waiving any claims against the city that might arise in connection with the investigation of the applicant or the release of any information resulting from such investigation to other appropriate government officials.

b. i. An applicant for a license or a certificate of approval shall be fingerprinted by a person designated for such purpose by the commission, the department of investigation or the police department and pay a fee to be submitted to

the division of criminal justice services and/or the federal bureau of investigation for the purposes of obtaining criminal history records.

ii. An applicant for a license or a certificate of approval shall provide to the commission, upon a form prescribed by the commission and subject to such minimum dollar thresholds and other reporting requirements set forth on such form, information for the purpose of enabling the commission to determine the good character, honesty and integrity of the applicant, including but not limited to: (a) a listing of the names and addresses of any person having a beneficial interest in an applicant business, and the amount and nature of such interest; (b) a listing of the amounts in which such applicant is indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owned; (c) a listing of such applicant's real property holdings or mortgage or other interest in real property held by such applicant other than a primary residence and the names and addresses of all co-owners of such interest; (d) the name and address of any business in which such applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (e) the names and addresses of all persons or entities from whom an applicant has received gifts valued at more than one thousand dollars in any of the past three years, and the name of all persons or entities excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code to whom the applicant has given such gifts in any of the past three years; (f) a listing of all criminal convictions, in any jurisdiction, of the applicant; (g) a listing of all pending civil or criminal actions to which the applicant knows or should have known that he or she is a party; (h) a listing of any determination by a federal, state or city regulatory agency of a violation by the applicant of statutes, laws, rules or regulations relating to the applicant's conduct where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of a business or in a civil fine, penalty, settlement or injunctive relief in excess of threshold amounts or of a type established by the commission; (i) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five year period preceding the application, wherein such applicant: (A) knew or should have known that the applicant was the subject of such investigation, or (B) has received a subpoena requiring the production of documents or information in connection with such investigation; (j) a certification that an applicant business has paid all federal, state, and local income taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding; (k) a listing of any license, permit or other permission held by the applicant to engage in any capacity in a gambling business or activity in any jurisdiction; (l) a listing of any denials to the applicant by any jurisdiction of a license, permit or other permission to engage in any capacity in a gambling business or activity; and (m) such additional information concerning the sources and nature of funding of an applicant business and the good character, honesty and integrity of applicants that the commission may deem appropriate and reasonable. An applicant may submit any additional information that the applicant believes demonstrates the applicant's good character, honesty and integrity, including a licensing determination from another jurisdiction. Notwithstanding any provision of this subdivision, an applicant for a certificate of approval shall not be required to submit information described in subparagraphs (a) and (m) of this paragraph or any other information the commission determines is not necessary or appropriate. An applicant may also submit to the commission any material or explanation which the applicant believes demonstrates that any information submitted pursuant to this paragraph does not reflect adversely upon the applicant's good character, honesty and integrity. The commission may require that applicants pay fees to cover the expenses of fingerprinting and background investigations provided for in this subdivision.

iii. In the case of a shipboard gambling business, the commission may also require that an applicant submit any or all of the information required by this paragraph with respect to any affiliate or subsidiary of the applicant that owns or operates a business in any jurisdiction.

iv. Notwithstanding any provision of this chapter, for purposes of this section in the case of an applicant shipboard gambling business that has a parent business entity: (A) fingerprinting and disclosure under this section shall be required of any person acting for or on behalf of the parent business who has direct management or supervisory responsibility for the operations or performance of the applicant; (B) the chief executive officer, chief operating officer

and chief financial officer, or any other person exercising comparable responsibilities and functions, of any subsidiary or affiliate of such parent business entity over which any person subject to fingerprinting and disclosure under subparagraph (A) of this paragraph exercises similar responsibilities shall be fingerprinted and shall submit the information required pursuant to subparagraphs (f) and (g) of paragraph ii of this subdivision, as well as such additional information pursuant to this paragraph as the commission may find necessary; and (C) the listing specified under subparagraph (i) of paragraph ii of this subdivision shall also be provided for any subsidiary or affiliate of the parent business entity for which fingerprinting and disclosure by principals thereof is made pursuant to (B) of this paragraph.

v. The chief executive officer, chief operating officer and chief financial officer, or any other person exercising comparable responsibilities and functions, of and subsidiary or affiliate of a shipboard gambling business shall be fingerprinted and shall submit the information required pursuant to subparagraphs (f), (g) and (i) of paragraph ii of this subdivision, as well as such other information pursuant to this paragraph that the commission may find necessary.

c. A business required to be licensed pursuant to this chapter shall inform the commission, within a reasonable time, of any changes in the ownership composition of such business, the addition or deletion of any principal at any time subsequent to the issuance of the license, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted on the application for a license. A business required to be licensed shall provide the commission with notice of at least ten business days of the proposed addition of a new principal to such business. The commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the commission determines within such period, based upon information available to it, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review by the commission. The licensee shall be afforded an opportunity to demonstrate to the commission that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the commission determines that such principal has not demonstrated that he or she possesses good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such licensee, as the case may be, within a reasonable time period prescribed by the commission.

d. Each applicant business shall provide the commission with a business address in New York city where notices may be delivered and legal process served and shall designate a person of suitable age and discretion at such address who shall be an agent for service of process.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

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NYC Administrative Code 20-955

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-955 Registration application; application for renewal.

a. An applicant for registration or renewal pursuant to this chapter shall submit an application on a form prescribed by the commission and containing such information as the commission determines will adequately identify and establish the background of such applicant. The commission may refuse to register or to renew the registration of an applicant who has knowingly failed to provide the information and/or documentation required by such form, or who has knowingly provided false information or documentation, required by this chapter or any rule promulgated pursuant hereto.

b. Notwithstanding any other provision of this chapter: (i) the commission may, where there is reasonable cause to believe that an applicant has not demonstrated to the commission that he or she possesses good character, honesty and integrity, require that such applicant be fingerprinted and provide to the commission the information set forth in subdivisions a and b of section 20-954 of this chapter and may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in subdivision a of section 20-956 of this chapter; and

(ii) if at any time subsequent to registration, the commission has reasonable cause to believe that the registrant lacks good character, honesty and integrity, the commission may require that such registrant be fingerprinted and provide the background information required by subdivision b of section 20-954 of this chapter and may, after notice and the opportunity to be heard, revoke the registration for the reasons set forth in subdivision a of section 20-956 of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special provisions, see note at end of chapter.

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Administrative Code of the City of New York

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NYC Administrative Code 20-956

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-956 Refusal to issue or renew a license or certificate of approval.

a. The commission shall refuse to issue or to renew a license to an applicant who has not demonstrated to the commission that he or she possesses good character, honesty and integrity. In determining that an applicant has not met his or her burden to demonstrate good character, honesty and integrity, the commission may consider, but is not limited to: (i) knowing failure by such applicant to provide truthful or complete information in connection with the application; (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal to issue such license or certificate of approval, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license or certificate of approval is sought, in which case the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending; (iii) conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license or certificate of approval; (iv) a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business or to perform the employment for which the license or certificate of approval is sought; (v) commission of a racketeering activity or knowing association with a person who has been convicted for a racketeering activity when the applicant knew or should have known of such conviction, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (vi) conviction of a gambling offense under 18 U.S.C. §1081 et seq., 18 U.S.C. §§1953 through 1955, article 225 of the penal law or the equivalent offense under the laws of any other jurisdiction; (vii) association with any

member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person; (viii) in the case of an applicant business, failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction and such judgment has not been stayed; and (ix) denial of a license or other permission to operate a gambling business or activity in another jurisdiction. For purposes of determining the good character, honesty and integrity of applicants for registration or registrants pursuant to section 20-955 of this chapter, the term "applicant" as used herein shall be deemed to apply to such applicants for registration or registrants.

b. The commission may refuse to issue or to renew a certificate of approval to an applicant who has not demonstrated that he or she possesses good character, honesty and integrity. In reaching such a determination, the commission may consider, but is not limited to, the factors set forth in paragraphs (i) through (ix) of subdivision a of this section.

c. The commission may refuse to issue or to renew a license or certificate of approval to an applicant who has knowingly failed to provide the information and/or documentation required in the form prescribed by the commission pursuant to section 20-954 of this chapter, who has knowingly provided false information or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto.

d. The commission may refuse to issue or to renew a license or certificate of approval to an applicant when such applicant: (i) was previously issued a license or certificate of approval pursuant to this chapter and such license or certificate of approval was revoked pursuant to the provisions of this chapter; or (ii) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license or certificate of approval pursuant to this chapter or any rules promulgated hereto.

e. The commission may refuse to issue or to renew a license pursuant to this chapter to an applicant business where such applicant business or any of the principals of such applicant business have been principals of a licensee whose license has been revoked pursuant to subdivision a of section 20-959 of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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NYC Administrative Code 20-957

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-957 Independent auditing required.

a. The commission may, in the event the background investigation conducted pursuant to section 20-954 of this chapter produces adverse information, require as a condition of a shipboard gambling license that the licensee enter into a contract with an independent auditor, approved or selected by the commission. Such contract, the cost of which shall be paid by the licensee, shall provide that the auditor investigate the activities of the licensee with respect to the licensee's compliance with the provisions of this chapter, other applicable federal, state and local laws and such other matters as the commission shall determine by rule. The contract shall provide further that the auditor report the findings of such monitoring and investigation to the commission on a periodic basis.

b. The commission shall be authorized to prescribe, in any contract required by the commission pursuant to this section, such reasonable terms and conditions as the commission deems necessary to effectuate the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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NYC Administrative Code 20-958

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-958 Investigations by the department of investigation or police department.

In addition to any other investigation authorized pursuant to law, the commissioner of the department of investigation or the police commissioner shall, at the request of the commission, conduct a study or investigation of any matter arising under the provisions of this chapter, including but not limited to investigation of the information required to be submitted by applicants for licenses, certificates of approval and registration and the ongoing conduct of licensees, holders of certificates of approval and registrants.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

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NYC Administrative Code 20-959

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-959 Revocation or suspension of license, certificate of approval or registration.

a. In addition to the penalties provided in section 20-960 of this chapter, the commission may, after notice and opportunity to be heard, revoke or suspend a license, certificate of approval or registration issued pursuant to the provisions of this chapter when the licensee or a principal, employee or agent of a licensee, a holder of a certificate of approval or a registrant: (i) has been found to be in violation of this chapter or any rules promulgated hereunder; (ii) has repeatedly failed to obey the lawful orders of any person authorized to enforce the provisions of this chapter; (iii) has failed to pay, within the time specified by a court, the commission or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant hereto; (iv) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 20-956 of this chapter, that the licensee, holder of a certificate of approval or registrant lacks good character, honesty and integrity or lacks the financial capacity to maintain and operate the business responsibly in a manner that will ensure the immediate payment to patrons; (v) whenever there has knowingly been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license, certificate of approval or registration was based; or (vi) whenever a licensee has failed to notify the commission as required by subdivision c of section 20-954 of this chapter of any change in the ownership interest of the business or any other material change in the information required on the application for such license, or of the arrest or criminal conviction of a principal of such licensee or any of its employees or agents of which the licensee had knowledge or should have known.

b. Notwithstanding any other provision of this chapter or rules promulgated thereto, the commission may, upon a determination that the operation of a shipboard gambling business or the conduct of an employee of such business

creates an imminent danger to life or property, immediately suspend the license of such business or the certificate of approval or registration of such employee without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to the chair of the commission who shall determine such appeal forthwith. In the event that the chair upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commission shall issue a final determination no later than four days following the conclusion of such hearing.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-960

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-960 Penalties.

In addition to any other penalty provided by law: a. Except as otherwise provided in subdivision b of this section, any person who violates any provision of this chapter or any of the rules promulgated thereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action or may be returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction;

b. Any person who violates subdivision a of section 20-953 of this chapter shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action or returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction; and

c. (i) In the event that a shipboard gambling business has violated subdivision f of section 20-963 of this chapter, the commission, in addition to any other penalty prescribed in this section, shall, after providing notice and the opportunity to be heard, be authorized to order that any gambling device or other gambling equipment used in the violation of such subdivision shall be removed, sealed or otherwise made inoperable. An order pursuant to this paragraph shall be posted on the vessel on which such violation occurs. The commission shall take reasonable measures to provide notice to a person(s) holding a security interest(s) in a gambling device or gambling equipment with respect to which action is taken pursuant to this section.

(ii) Ten days after the posting of an order issued pursuant to paragraph (i) of this subdivision, this order may be

enforced by any person so authorized by section 20-962 of this chapter.

(iii) Any gambling device or gambling equipment removed pursuant to the provisions of this subdivision shall be stored at a dock or in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such item may be charged with reasonable costs for removal and storage payable prior to the release of such item.

(iv) A gambling device or gambling equipment sealed or otherwise made inoperable or removed pursuant to this subdivision shall be unsealed, restored to operability or released upon payment of all outstanding fines and all reasonable costs for removal and storage and upon demonstration satisfactory to the commission that the provisions of subdivision f of section 20-963 will be complied with in all respects.

(v) It shall be a misdemeanor for any person to remove the seal from or make operable any gambling device or gambling equipment sealed or otherwise made inoperable in accordance with an order of the commission.

(vi) A gambling device or gambling equipment removed pursuant to this subdivision that is not reclaimed within ninety days of such removal by the owner or other person lawfully entitled to reclaim such item shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture, the commission shall, upon a public notice of at least ten business days, sell such item at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.

d. The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any activity in violation of this chapter and for civil penalties.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-961

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-961 Liability for violations.

A shipboard gambling business required by this chapter to be licensed shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant hereto committed by any of its principals acting within the scope of such business and any of its employees and/or agents within the scope of their employment.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-962

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-962 Enforcement.

Notices of violation for violations of any provision of this chapter or any rule promulgated hereunder may be issued by authorized employees or agents of the commission or the police department. In addition, such notices of violation may, at the request of the commission and with the consent of the appropriate commissioner, be issued by authorized employees and agents of the department of consumer affairs or the department of investigation.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-963

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-963 Conduct of shipboard gambling licensees.

a. A shipboard gambling licensee shall be in compliance with all applicable federal, state and local statutes, laws, rules and regulations governing operation of a shipboard gambling business, including but not limited to: (i) specifications for design and construction, equipment required to be present on board such vessel, maintenance, inspection, documentation, operation and licensing of such vessels; requirements for the medical fitness, training and other qualifications, drug testing and licensing of the crew of such vessels; environmental requirements; requirements regarding safety and conditions of employment on such vessel; and requirements for accessibility under the Americans with Disabilities Act and any regulations promulgated pursuant thereto, as such regulations may from time to time be amended and analogous provisions of title eight of this code;

(ii) prohibitions of gambling activity or the use of gambling devices within the territorial waters of the United States or the state of New York;

(iii) applicable zoning and building code requirements;

(iv) requirements governing the service and provision of food and alcoholic beverages within the territorial waters of the state of New York; and

(v) health and sanitary regulations.

b. A shipboard gambling licensee shall maintain audited financial statements, records, ledgers, receipts, bills and such other records as the commission determines are necessary or useful for carrying out the purposes of this chapter.

Such records shall be maintained for a period of time not to exceed five years to be determined by rule of the commission, provided, however, that such rule may provide that the commission may, in its discretion, require that records be retained for a period of time exceeding five years. Such records shall be made available for inspection and audit by the commission at its request and, at the option of the commission, at either the licensee's place of business or at the offices of the commission.

c. A shipboard gambling licensee shall maintain liability and other insurance as prescribed by rule of the commission.

d. A shipboard gambling licensee shall, in accordance with rules of the commission, institute and maintain security and safety measures and shall provide and maintain such other public services for the welfare of patrons required by such rules.

e. A shipboard gambling licensee shall, upon request by a passenger who does not wish to leave the vessel carrying cash on his or her person, provide payment of winnings by check.

f. A shipboard gambling licensee shall ensure, by means acceptable to the commission and the department of investigation, that all gambling devices and gambling equipment on board the vessel are secured or made inoperable during any period the vessel is in the territorial waters of New York and shall comply with all rules promulgated by the commission regarding the maintenance, safeguarding and storage of gambling devices.

g. A shipboard gambling licensee shall adopt measures to ensure that persons under eighteen years of age do not engage in gambling aboard a vessel operated by or on behalf of such licensee.

h. All advertising by a shipboard gambling licensee shall prominently state the age restrictions for engaging in gambling aboard the vessel, and shall comply with all rules governing advertising promulgated by the commission.

i. A shipboard gambling licensee shall provide access to the vessel(s) operated by or on behalf of the shipboard gambling business to any person authorized by section 20-962 of this chapter to enforce the provisions of this chapter including, but not limited to, regular and permanent access by any person assigned to such vessel by an agency authorized to enforce the provisions of this chapter.

j. A shipboard gambling licensee shall not purchase goods or services from a key vendor or an auxiliary vendor unless such vendor has first obtained a license from or registered with the commission, whichever is applicable, unless the shipboard gambling licensee has obtained permission from the commission as provided by rule of the commission pursuant to subdivision q of section 20-950 of this chapter or the key vendor or auxiliary vendor has been granted a waiver pursuant to such subdivision.

k. (i) A shipboard gambling licensee shall not employ any person required to obtain a license, certificate of approval or to register pursuant to the provisions of this chapter unless such person has obtained such license, certificate of approval or registration; provided, however, that the commission shall, by rule, make provision for temporary permission for employment pending completion by the commission of review of an applicant for a certificate of approval or registration and may, in its discretion, permit the employment of a key employee who has not obtained the required license where the employment of such person is necessary for the operation of the shipboard gambling business.

(ii) The commission may, upon the request of a shipboard gambling business, make available the names of applicants for employment who have been approved for licenses, certificates of approval or registrations.

l. A shipboard gambling licensee shall demonstrate and ensure for each vessel operated by or on behalf of such licensee, irrespective of the size of the vessel, that (i) every crew member required by the certificate of inspection issued for each such vessel by the United States coast guard or the analogous document issued pursuant to the international

convention for the safety of lives at sea meets all marine personnel requirements set forth in such certificate or document and holds the applicable documentation, (ii) at least sixty-five percent of the required number of crew actually manning the vessel, as set forth in the certificate of inspection issued for each such vessel by the United States coast guard or the analogous document issued pursuant to the international convention for the safety of lives at sea, exclusive of those required to be licensed by the United States coast guard or the international maritime organization, have merchant mariners' documents endorsed for a rating of at least able seaman or the international maritime equivalent, and (iii) every person employed on each such vessel has received familiarization training consistent with the standards regarding emergency occupational safety, medical care and survival functions set forth in the seafarer's training, certification and watchkeeping code.

m. A shipboard gambling licensee shall comply with all additional rules governing conduct of a shipboard gambling business promulgated by the commission in order to effectuate the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-964

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-964 Rules.

The commission may promulgate such rules as it may deem necessary or useful to effectuate the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-965

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-965 Hearings.

a. A hearing pursuant to this chapter may be conducted by the commission, or, in the discretion of the commission, by an administrative law judge employed by the office of administrative trials and hearings or other administrative tribunal of competent jurisdiction. Where a hearing pursuant to a provision of this chapter is conducted by an administrative law judge, such judge shall submit recommended findings of fact and a recommended decision to the commission, which shall make the final determination.

b. Notwithstanding the provisions of subdivision a of this section, the commission may provide by rule that hearings or specified categories of hearings pursuant to this subchapter may be conducted by the department of consumer affairs. Where the department of consumer affairs conducts such hearings, the commissioner of consumer affairs shall make the final determination.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 20-966

Administrative Code of the City of New York

Title 20-A Consumer Affairs

CHAPTER 1 SHIPBOARD GAMBLING

§ 20-966 Reporting requirements.

a. No later than one week following the submission of the mayor's management report, the commission shall submit to the council a report detailing its activities pursuant to this chapter for the period covered by the mayor's management report. The report required by this section shall at a minimum include:

i. the number of applicants for a license, certificate of approval or registration that were denied by the commission and a statement of the reasons for such denials;

ii. the number of licenses, certificates of approval and registrations issued by the commission;

iii. the number of applications for licenses, certificates of approval or registrations, respectively, presently pending;

iv. the number of licenses, certificates of approval and registations that have been suspended or revoked by the commission pursuant to section 20-959 of this chapter, a statement of the reasons for such suspensions and revocations, and the average duration of such suspensions;

v. the amounts, by category, of all fees relating to implementation of this chapter to which the city is entitled, the amounts actually collected, and the reasons for any difference between the two amounts; and

vi. the amounts, by category, of all expenditures relating to enforcement of the provisions of this chapter.

b. The information required by paragraphs i, ii and iv of subdivision a of this section shall identify the shipboard

gambling business to which the information relates.

HISTORICAL NOTE

Section added L.L. 57/1997 § 2, eff. July 14, 1997 with special

provisions, see note at end of chapter.

NOTE

Provisions of L.L. 57/1997 eff. July 14, 1997:

Section 1. Legislative findings. The council hereby finds that city regulation of gambling "cruises to nowhere" that operate from locations within New York city is necessary to ensure public confidence and trust in such activities and to safeguard the security of the public who participate in them. Gambling activities are particularly susceptible to criminal activity and have historical associations with organized crime control. Like the legislatures in other jurisdictions, such as New Jersey and Nevada, which have acted to protect consumers from fraudulent practices and to prevent gambling from providing new opportunities for organized crime, the council finds that public confidence and trust can only be achieved and sustained by a regulatory system that ensures that such gambling operations will not be controlled or influenced by persons with criminal records and associations or associations with organized crime. The council therefore finds that it is necessary to require that businesses that operate gambling "cruises to nowhere" using vessels embarking from New York city, and their employees and suppliers, be licensed by the city and that the standards for the issuance of such licenses allow for the denial of licenses to entities and individuals unable to demonstrate that they possess good character, honesty and integrity. The council finds further that in order to provide for effective regulation to ensure the lawful operation of gambling on vessels operating from New York city, it is necessary to establish a gambling control commission that shall be responsible for the licensing and regulation of businesses that conduct shipboard gambling.

§ 3. The provisions of this local law shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of this local law, or the applicability thereof to any person or circumstance, shall be held invalid by any court of competent jurisdiction, the remainder of this local law and the application thereof shall not be affected thereby.

§ 4. The New York city gambling control commission is hereby authorized, immediately upon the effective date of this local law, to develop application and disclosure forms for the purposes of applications for licenses, certificates of approval and registrations pursuant to sections 20-954 and 20-955 of the administrative code of the city of New York, as added by section 2 of this local law, to establish fees for such applications and for background investigations, and to require the submission of such application and disclosure forms and fees within thirty days of having made such forms available by shipboard gambling businesses in operation as of such date, by persons employed as of such date by such businesses and, within sixty days, by vendors that would be subject to the provisions of sections 20-954 or 20-955 of the administrative code of the city of New York as added by section 2 of this local law. The commission shall, before the date on which application and disclosure forms are made available to vendors pursuant to this section, develop and make available a list of categories of vendors and/or amounts of sales of such goods or services that do not require obtaining a license as a key vendor or registration as an auxiliary vendor and may waive the requirement for a license or registration when, in its discretion, such license or registration is unnecessary to achieve the purposes of this local law. In addition, the chair of the commission may grant permission to a shipboard gambling business authorized to operate pursuant to section 5 of this local law to purchase goods or services on an expedited basis from an unlicensed or unregistered vendor when such purchase is necessary for the operation of such business. The commission shall, in addition, establish a procedure for the preliminary review of applications submitted by shipboard gambling business operating in New York city on or before one hundred and eighty days following the effective date of this local law and for provisional authorization for such businesses to operate following such preliminary review, pending completion of

full review. At any time during or following such preliminary review that the commission finds reasonable cause to believe that an applicant lacks good character, honesty and integrity or that there are other reasons that may lead to the denial of a shipboard gambling license pursuant to section 20-956 of the administrative code of the city of New York, as added by section 2 of this local law, the commission may, in its sole discretion, refuse to issue a provisional authorization or revoke such an authorization. A provisional authorization to operate a shipboard gambling business granted by the commission pursuant to this section shall be deemed void upon the issuance or denial of an application for a shipboard gambling license.

§ 5. This local law shall take effect immediately, provided, however, that: (i) no enforcement of the requirement for a shipboard gambling license shall take place with respect to a shipboard gambling business operating on or before January 8, 1997 that has submitted completed application and disclosure forms and the fees established pursuant to section 4 of this local law to the New York city gambling control commission no later than thirty days following the date on which such forms have been made available by the commission and such application has not been denied; (ii) no enforcement of the requirement for a shipboard gambling license shall take place with respect to a shipboard gambling business operating in New York city on or before one hundred eighty days following the effective date of this local law that has submitted completed application and disclosure forms and the fees established pursuant to section 4 of this local law to the New York city gambling control commission and such application has not been denied, provided that such business has received a provisional authorization to operate from the New York city gambling control commission pursuant to section 4 of this local law and such provisional authorization has not been revoked or an application for a license been denied; (iii) no enforcement of the requirement for a key vendor license or a vendor registration shall take place with respect to a vendor furnishing goods or services to a shipboard gambling business described in (i) of this section where the vendor was furnishing goods or services prior to the effective date of this local law and such vendor has submitted completed application and disclosure forms and the fees established pursuant to section 4 of this local law to the New York city gambling control commission no later than sixty days following the date on which such forms have been made available by the commission pursuant to section 4 of this local law and such application has not been denied; provided that the commission shall make provision for temporary permission for a shipboard gambling business operating pursuant to this section to purchase goods or services from a vendor that has not provided goods or services to such business prior to the effective date of this local law provided that such vendor has submitted completed application and disclosure forms to the commission upon agreement to provide goods or services and such application has not been denied; (iv) no enforcement of the requirements set forth in subdivision l of section 20-963 of the administrative code of the city of New York, as added by section 2 of this local law shall take place with respect to a shipboard gambling business described in (i) of this section until ninety days following the date upon which applications and disclosure forms have been made available by the commission; (v) no enforcement of the requirement for a key vendor license or registration shall take place with respect to a vendor furnishing goods or services to a business described in (ii) of this section where such vendor has submitted completed application and disclosure forms to the commission by the time the provisional authorization has been issued to such business pursuant to section 4 of this local law and such application has not been denied; (vi) no enforcement of the requirement for a key employee license, a certificate of approval or an employee registration shall take place in regard to a person employed by a shipboard gambling business described in (i) of this section who has submitted the forms and the fees required by the commission no later than thirty days following the date on which such forms have been made available by the commission and such application has not been denied; (vii) no enforcement of the requirement for a key employee license, a certificate of approval or an employee registration shall take place in regard to a person employed by a shipboard gambling business described in (ii) of this section who has submitted the forms and the fees required by the commission no later than the date on which such business has been issued a provisional authorization by the commission and the application has not been denied; (viii) provided that the commission shall make provision for temporary permission for a shipboard gambling business operating pursuant to this section to employ persons who were not employed by such business prior to the effective date of this local law or at the time provisional authorization was issued to such business, provided that such persons have submitted completed application and disclosure forms and such application has not been denied.

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Administrative Code of the City of New York

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NYC Administrative Code 21-101

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-101 Definitions.

Whenever used in this chapter the following words shall have the following meanings:

a. "Commissioner" shall mean the commissioner of social services of the city.

b. "Department" shall mean the department of social services of the city.

c. "Institution" shall include any charitable corporation, one of the objects of which is the care of children or the placing of children in families.

HISTORICAL NOTE

Section amended L.L. 9/1992 § 2, eff. Apr. 5, 1992.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-102

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-102 Powers of commissioner as to destitute children.

The commissioner shall have power to commit, place out, discharge, or transfer any child who may be in his or her custody, or who may have been placed by him or her in an institution as a public charge, whenever in his or her judgment it shall be for the best interests of such child so to do. In placing out such children, the commissioner may assign one or more of his or her subordinates to make the necessary investigations. He or she may employ any duly incorporated charitable institution or society and may reimburse such institution or society for any expenses, other than salaries, actually incurred in the placing out, supervision, and transfer, if necessary, of children who are public charges. An institution to which a child has been committed, as in this section provided, shall have the authority to place such child in a family, or consent to his or her adoption.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-2.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The respondent, the Jewish Child Care Association of New York, in conjunction with the Commissioner of Welfare of the City of New York, is vested by the authority of this section and the Social Welfare Law § 383 with the

right to the custody of an infant who was boarded out by the respondent to the appellant. Hence, a writ of habeas corpus directing the appellants to return the infant to the custody of the respondent was proper. Appellants had no legal right with respect to the infant's custody and had no standing to contest the determination of the Special Term that return to the custody of the respondent would be in the infant's best interest, merely because of their affection for the infant and her affection for them and the devoted care which they had given her while she was in their home.-Matter of Jewish Child Care Assoc. of New York, 6 A.D. 2d 698, 174 N.Y.S. 2d 335 [1958], aff'd 5 N.Y. 2d 222, 183 N.Y.S. 2d 65, 156 N.E. 2d 700 [1959].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-103

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-103 Limitations on powers of commissioner as to destitute children.

In placing out, transferring or committing any such child, the commissioner, or any institution or society employed by the commissioner, when practicable, shall place out the child with an individual of the same religious faith as the parents of the child, or transfer or commit the child to an institution governed by persons of the same religious faith as the parents of the child. The commissioner shall commit such child only to an institution which the state board of social welfare has certified as having complied with the rules and regulations as established by such board for such institutions, pursuant to section one of article eight of the state constitution. The commissioner may commit such child to an institution situated without the city only if such board has also certified that such institution is properly protected against fire and other dangers.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-3.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 21-104

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-104 Term of commitment of children; discharge.

a. The term of commitment of each destitute and neglected child shall be: 1. Until such child shall attain the age of sixteen years, or

2. Until such child shall be given over in adoption by the institution to which it shall have been committed to some suitable person, or

3. Until such child shall be returned to its parents, relatives, or guardians, or otherwise discharged.

b. The commissioner, may, however, provide care in an institution, agency boarding home, or family free or boarding home for any destitute minor between sixteen and eighteen years of age who cannot be properly cared for in his or her own home, either directly or through authorized agencies, except that direct placements in agency boarding homes may be made by the commissioner only if the state board of social welfare shall have authorized him or her to operate such homes and only if suitable care is not otherwise available through an authorized agency under the control of persons of the same religious faith as the child. Such care may be continued after the eighteenth birthday of the minor and until he or she is discharged from care or becomes twenty-one years of age.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-4.0 added chap 929/1937 § 1

Amended LL 34/1960 § 1

Amended LL 230/1964 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-105

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-105 Reports and records of institutions.

Each such institution caring for destitute and neglected children shall file with the commissioner at the end of every three months a list containing both the names of all the children received or discharged during the month, and the names and residence of the parents and guardians of such children so far as known. Each such institution shall keep a book in which it shall cause to be entered the name and address of each parent, relative or other person visiting an inmate of such institution who is in whole or in part a charge upon the city, and such name and address shall be entered upon the occasion of each visit by any such person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-5.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-106

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-106 Payments to private institutions.

Payments shall not be made by the city to any charitable, eleemosynary or reformatory institutions wholly or partly under private control, for the care, support, secular education or maintenance of any destitute, neglected or delinquent child therein, except upon the certificate of the commissioner that such child has been received and is retained by such institution pursuant to the rules and regulations established by the state board of social welfare. Moneys paid by the city to any such institution for the care, support, secular education or maintenance of its inmates shall not be expended for any other purpose. Whenever the commissioner shall decide, after reasonable notice to such institution and a hearing, that any such child who is received and retained in such institution is not a proper charge against the public, and written notice of such decision is given by the commissioner to such institution, thereupon all right on the part of such institution to receive compensation from the city for the further retention of the child shall cease. The commissioner shall file in the office of the department a statement of the reasons for his or her decision and of the facts upon which it is founded, and shall furnish a copy to such institution where the child is detained. The commissioner's decision may be reviewed on certiorari by the supreme court.

No money shall be paid out of any appropriation to any charitable, eleemosynary or reformatory institution which shall deny or limit admission to any destitute, neglected or delinquent children duly committed by the commissioner or a court of appropriate jurisdiction, because of the race, color or religion of such children, provided, however, that no institution of a particular religious faith shall be required to accept children adhering to a religious faith other than its own.

The commission on foster care of children shall have the power and continuing duty to investigate and determine, upon complaint made and shall have the power on its own initiative to investigate and determine whether

any institution is practicing discrimination in violation of the provisions of the preceding paragraph. The commission may direct that such investigation shall be conducted by one or more of its members or by its secretary or assistant secretary. Whenever in the judgment of the commission, such investigation discloses that there is reason to believe that an institution is practicing discrimination, the commission shall cause a hearing to be held before the commission or before two or more of its members, as it may direct, upon reasonable notice to such institution. The commission shall dismiss the proceedings if it finds upon the basis of such hearing, that such institution is not practicing discrimination. In the event the commission shall find on the basis of such hearing, that such institution is practicing discrimination, it shall certify to the commissioner its findings of fact, together with its determination of the period of time, not to exceed one year, within which the institution shall be permitted to amend its practices and comply with said provisions. The commissioner shall thereupon serve notice of such certification on such institution. All right on the part of such institution to receive moneys from the city shall cease upon the date specified in said certification unless, prior to the expiration thereof, such institution shall have submitted to the commission proof that it has ceased to engage in said violations and the commission shall have found and certified to the commissioner that said institution has complied with said provisions. The institution shall not be deprived of payments for services rendered prior to the date specified in the certification. The determination of the commission that an institution is practicing discrimination, or having been ordered to cease said discrimination has failed to cease, may be reviewed by the supreme court, which may, for good cause shown, during the pendency of such review, stay the termination of the right of such institution to receive moneys from the city. The commission, or any of its members authorized by it to conduct a hearing, may, at any such hearing, compel the attendance of witnesses, administer oaths, take the testimony of any person under oath and require the production of any evidence relating to the matter in question at the hearing. The department and the corporation counsel are authorized upon request by the commission, to make members of their respective staffs available, upon a temporary basis, to the commission, to assist it in conducting the investigations and hearings provided by this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-6.0 added chap 929/1937 § 1

Amended LL 66/1952 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-107

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-107 Power of commissioner as to removal of destitute persons.

The commissioner shall have power to pay for the cost of the removal or transportation of any person who may come under the commissioner's charge whenever in his or her judgment the city will thereby be relieved from an unnecessary or improper charge.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-7.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-108

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-108 Support of poor persons by relatives.

a. The spouse or parent of a recipient of public assistance or care or of a person liable to become in need thereof shall, if of sufficient ability, be responsible for the support of such person, provided that a parent shall be responsible only for the support of his or her minor child. Step-parents shall in a like manner be responsible for the support of minor step-children.

b. If a sufficiently able relative of a poor person fails to support him or her, as in this section provided, and such person is being cared for or is about to be cared for by the commissioner, such commissioner may apply to the family court for an order to compel him or her to pay the reasonable charge determined by such commissioner for the care of such relative during his or her stay in the public or private institution, or home where the commissioner has placed him or her. The proceedings to be taken to make such order and to enforce the same shall be in the name of and conducted by the commissioner. The determination of such commissioner as to the reasonableness of such charges may at any time be reviewed in the family court.

c. Evidence that the poor person mentioned in this section is without adequate means of support shall be presumptive proof of the possibility of his or her becoming a public charge. The relative against whom proceedings are begun for the support of a poor person shall be taken to be of sufficient ability to contribute to the support, unless the contrary shall affirmatively appear to the satisfaction of the court or a judge or justice thereof.

d. Instead of bringing legal proceedings as in this section specified, the commissioner can directly enter into an agreement with a relative for the payment of the charges determined by such commissioner to be the reasonable charge for the care of the person maintained or about to be maintained by such commissioner as a public charge.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-8.0 added chap 929/1937 § 1

Sub a amended chap 656/1945 § 4

Sub b amended chap 100/1963 § 451

Sub a amended chap 52/1965 § 2

Sub a repealed and added chap 256/1966 § 55

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-109

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-109 Recovery from recipient who has property or other means.

a. If it shall at any time be ascertained that any person, who has received support or care or treatment from the city through the commissioner, has real or personal property or other means of enabling him or her to reimburse the city, an action may be maintained in a court of competent jurisdiction, by such commissioner, against such person or his or her estate to recover such sums of money as may have been expended by the city through such commissioner in the support or care or treatment of such person during the period of ten years next preceding such discovery or the death of such person.

b. Instead of bringing the legal proceedings as in this section specified, such commissioner may determine the reasonable value of such support or care or treatment, and enter into an agreement for its payment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-9.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Cause of action by Commissioner of Welfare under Social Welfare Law § 104 and Administrative Code § 603-9.0 to recover cost of public assistance granted to defendant and his family, **held** to have accrued upon plaintiff's

discovery that defendant was possessed of property. The Statute of Limitations against the right of plaintiff to bring the action began to run at that time and not when the public assistance was granted.-Rhatigan v. Curry, 191 Misc. 3, 76 N.Y.S. 2d 428 [1947], 275 App. Div. 691, 87 N.Y.S. 2d 429 [1949].

¶ 2. In action to recover assistance furnished defendant, the Commissioner of Welfare could examine defendant and her daughter-in-law as to the ownership of certain premises, defendant's interest therein, the value thereof, and the conveyance of such property to the daughter-in-law.-Hillard v. King, 132 (77) N.Y.L.J. (10-20-54) 11, Col. 3 F.

¶ 3. The Commissioner of Welfare or the Commissioner of Hospitals has 10 years within which to discover ability to pay for assistance rendered, and the six year statute of limitations does not begin to run until such discovery.-MacLean v. Edenbaum, 6 Misc. 2d 933, 167 N.Y.S. 2d 808 [1957].

¶ 4. A person who had received assistance and care died on March 22, 1948, and letters of administration were issued to the Public Administrator on March 21, 1949. On July 14, 1952, the Public Administrator paid the balance remaining in his hands to the City Treasurer for the use and benefit of three named distributees of the decedent, whose whereabouts was unknown. On November 18, 1955, the Commissioner of Hospitals ascertained that the decedent had left an estate. He filed an action to vacate the order of distribution. **Held:** (1) The proper form of action by the Commissioner would have been against the known distributees rather than to vacate the order of distribution. (2) The action was barred by the statute of limitations, since the limitation on action against the estate of a deceased person starts to run on the date of his death.-Matter of Gottheimer, 9 Misc. 2d 489, 169 N.Y.S. 2d 854 [1958].

¶ 5. Where an infant and his wife and child were receiving public welfare assistance and there was on deposit in a bank a sum of money to the credit of the infant resulting from a recovery in a personal injury action, and the claim of the Department had not been reduced to judgment, the court denied an order directing the bank to turn over said funds to the Commissioner of Welfare.-Windley v. Manos, 144 (116) N.Y.L.J. (12-19-60) 15, Col. 2 T.

¶ 6. The Commissioner of Hospitals could maintain an action against the husband and adult children of a patient to recover the cost of hospital services rendered to her. He was not required to sue the husband before commencing an action against the children. He could sue any relative or combination of relatives who were liable under common law or the statute.-Trussell v. Rossi, 38 Misc. 2d 829, 238 N.Y.S. 2d 892 [1963].

¶ 7. Public Welfare official has cause of action to recover monies expended on behalf of welfare recipient within a period of 10 years prior to the discovery of assets of the recipient. The cause accrues upon the discovery of assets and continues for six years thereafter.-Matter of Estate of Herman, 43 Misc. 2d 309, 250 N.Y.S. 2d 829 [1964].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-110

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-110 Potter's field.

The commissioner shall have charge of the Potter's Fields, and when the necessity therefor shall arise, shall have power to lay out additional Potter's Fields or other public burial places for the poor and strangers and from time to time enclose and extend the same to make enclosures therein and to build vaults therein, and to provide all necessary labor and for interments therein. The Potter's Field on Hart's island, however, shall remain under the control of the department of correction, and the burial of deceased paupers therein shall continue under rules and regulations established by the joint action of the departments of social services and correction, or in case of disagreement between such departments, under such regulations as may be established by the mayor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-10.0 added chap 929/1937 § 1

Amended LL 50/1942 § 68

Amended LL 136/1953 § 1

(Section number and heading omitted)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-111

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-111 Soliciting of contributions in public.

a. It shall be unlawful for any person, organization, society, association or corporation or their agents or representatives to solicit money, donations of money or property, or financial assistance of any kind upon the streets, in office or business buildings, by house to house canvass, or in public places in the city, except upon a license issued by the commissioner and an identification card issued by the chairperson or district chairperson of any charitable drive and any such regulations as hereinafter provided.

b. Application to solicit funds for any cause whatever as provided for in this section shall be addressed to the commissioner and such application shall contain the following information:

1. Name and purpose of the cause for which permission is sought.

2. Names and addresses of the officers and directors of the organization.

3. Time for which permission is sought and localities and places of solicitation.

4. Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such solicitation.

5. Such other information as the commissioner shall require.

c. It shall be the duty of the commissioner, before granting permission to solicit funds or donations as provided for in this section, to compel the applicant to file with him or her a signed statement of all moneys collected in the

calendar year or the fiscal year of such organization, society, association or corporation previous to the application, the expenditures connected therewith, together with the names and addresses of all persons receiving wages, commissions or emoluments and the amounts so expended.

d. The commissioner may establish such regulations as he or she may deem necessary in effectuating the purposes and objects of this section.

e. Licensees operating under this section shall be compelled to label all collection boxes or containers used in the solicitation of funds either by appeal in person or the placing of receptacles for the receipt of such public contributions in stores, factories, shops, offices, theatres, hotels, restaurants, railway stations, ferry houses, or other public places, with the name of the organization for which the permit is issued, and in such conspicuous manner as the commissioner may direct. In addition, where the solicitation of funds is by appeal in person and where the solicitor receives no compensation for such solicitation, the box or container shall bear on it the word "volunteer" in a conspicuous place. Any solicitor receiving compensation for such solicitation who uses a box or container bearing the word "volunteer" shall be subject to a fine not to exceed one hundred dollars or to imprisonment for a period not to exceed thirty days or both.

f. Any person or persons who shall violate any of the provisions of this section, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment not exceeding ninety days, or by both.

g. The provisions of this section shall not apply to any corporation organized under the religious corporations law; nor to solicitation at the regular exercises or services of any lodge, benevolent order or fraternity, or any branch thereof, whenever such solicitation is made at the regularly appointed meetings and regular places of worship or exercises of such lodge, order or fraternity.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-11.0 added chap 929/1937 § 1

Sub e amended LL 93/1955 § 1

Sub c amended LL 39/1957 § 5

CASE NOTES FROM FORMER SECTION

¶ 1. Refusal of Commissioner of Welfare to issue to petitioner a license for the solicitation of funds, would not be disturbed, in absence of any showing that the Commissioner acted in an arbitrary manner.-Pollack v. Hilliard, 125 (27) N.Y.L.J. (2-7-51) 476, Col. 3 T.

¶ 2. The law seems to give to the Board of Transportation rather than to the Commissioner of Welfare the authority to permit solicitation of alms in subway stations.-People v. Bender, 201 Misc. 66, 110 N.Y.S. 2d 54 [1952].

¶ 3. The telecasting of "Strike It Rich" in a studio to which the public was admitted as an audience and in such a manner that donations for needy persons were obtained from television viewers, was a violation of the provisions of the Code prohibiting the soliciting of contributions in public.-People (Friedman) v. Framer, 208 Misc. 236, 139 N.Y.S. 2d 331 [1954].

¶ 4. An alleged cause of action for a declaratory judgment that "Strike It Rich" did not constitute solicitation of donations within the meaning of the statute was insufficient since the Court could not determine whether or not future

broadcasts would or would not involve such a solicitation.-Framer v. McCarthy, 205 Misc. 921, 131 N.Y.S. 2d 90 [1954].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-112

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-112 Records to be kept by commissioner.

It shall be the duty of the commissioner to keep and preserve a proper record of: 1. All persons who shall come under his or her care or custody, and of the disposition made of such persons, and

2. All persons who are inmates of private institutions who are accepted by him or her as proper charges upon the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-12.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-113

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-113 Information to be furnished to commissioner and other agencies.

Transcripts or searches or certified copies of records in any agency of the city, shall be furnished without charge or fee to the department or any authority charged with the duty of administering laws relating to the poor or for the relief of veterans or the families or dependents of veterans in the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 603-13.0 added chap 929/1937 § 1

Amended chap 100/1963 § 451

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-113.5

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-113.5 Interpretation Services.

The Commissioner shall require the immediate provision of interpretation services for non-English speaking residents in all income maintenance centers located in New York City, when such non-English speaking residents comprise at least ten percent of the service population of a particular center.

HISTORICAL NOTE

Section added L.L. 86/1988 § 1.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-114

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-114 Municipal lodging houses.

a. The commissioner shall have jurisdiction over, and it shall be his or her duty to take charge of all municipal lodging houses belonging to or hereafter acquired or established by the city.

b. It shall be the duty of the commissioner or of the superintendent of any municipal lodging house acting under such commissioner or superintendent, to provide for any applicants for shelter who, in his or her judgment, may properly be received, plain and wholesome food and lodging for a night, free of charge, and also to cause such applicants to be bathed on admission and their clothing to be steamed and disinfected.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-115

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-115 Establishment of day nurseries.

The commissioner may establish, in his or her discretion, one or more day nurseries, and may adopt rules and regulations for the free admission thereto of children under ten years of age.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-2.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-116

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-116 Commissaries.

a. The commissioner may establish a commissary at camp LaGuardia and a commissary at the Neponsit home for the aged for the use and benefit of the residents and employees thereof. All moneys received from the sales in such commissaries shall be paid over semimonthly to the commissioner of finance without deduction. The provisions of section 12-114 of the code shall apply to every officer or employee who receives such money in the performance of his or her duties in such commissaries. The accounts of the commissaries shall be subject to supervision, examination and audit by the comptroller and all other powers of the comptroller in accordance with the provisions of the charter and code.

b. All moneys received from the sales in such commissaries shall be kept in a separate and distinct fund to be known as the commissary fund. Such fund shall be used for:

1. The purchase of all merchandise for resale in such commissaries;

2. The purchase of supplies, materials, and equipment for such commissaries;

3. The furnishing of work or labor to be done for such commissaries;

4. The salaries of all employees of the Neponsit home for the aged commissary and the incentive allowance authorized by certificate of the director of the budget to be paid to the residents of camp LaGuardia who are permitted to work in the camp LaGuardia commissary; and

5. All other costs and expenses of operating such commissaries.

c. Any surplus remaining in the commissary fund after deducting all items described in subdivision b hereof shall be used for the general welfare of the residents of camp LaGuardia and the Neponsit home for the aged. In the event such fund at any time exceeds ten thousand dollars, the excess shall be transferred to the general fund.

d. All expenditures for items described in paragraph one of subdivision b of this section shall be made upon vouchers issued by the commissioner and subject to audit by the comptroller. All other expenditures described in subdivision b and subdivision c of this section shall be made by the commissioner in accordance with schedules approved by the mayor or of the director of the budget acting in accordance with a delegation of power from the mayor. All supplies, materials, equipment and merchandise to be furnished and all work or labor to be done, the cost of which is payable from the commissary fund, shall be furnished or provided in accordance with the provisions of chapter thirteen of the charter and chapter one of title thirteen of the code.

e. All appointments to positions in the Neponsit home for the aged commissary shall be made in accordance with the civil service law and rules. The salaries of employees of such commissary shall be fixed by the mayor. Such salaries and all pension contributions required to be made by the city on behalf of such employees shall be paid from the commissary fund.

f. Any officer, employee or resident, whose duties in connection with the commissary fund involve possession of or control over funds, shall execute a bond to the city for the faithful performance of his or her duties in such sum as may be fixed and with sureties to be approved by the comptroller, or shall in the alternative be included in the coverage of a blanket bond insuring the city for the faithful performance of his or her duties in such sum as may be fixed and with sureties to be approved by the comptroller.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-3.0 added LL 30/1960 § 1

Amended LL 30/1962 § 1

Amended chap 100/1963 § 452

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-117

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-117 Contracts to make rental payments.

1. The commissioner shall have the power to and may, within the amount appropriated therefor, enter into a contract to make rental payments to the owner, landlord, lessee, managing agent of, or other person entitled to rent and receive rental payments for, housing accommodations whenever (a) a recipient of public assistance and care has neglected or failed to make rental payment and payment has not otherwise been made, or (b) a housing accommodation is vacant and the owner, landlord, lessee, managing agent or such other person agrees in such contract to hold such housing accommodation vacant and to accept as a new tenant a recipient of public assistance and care designated by the commissioner, and until such housing accommodation is occupied by and rental payments are made by such new tenant; provided, however, that no rental payments shall be made in accordance with this provision if such housing accommodation remains vacant for more than sixty days.

2. The commissioner shall not be deemed to have assumed the duties of a tenant under lease because he or she has entered into a contract to make rental payments.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-4.0 added chap 1164/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-118

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-118 New York city commission for the foster care of children.

a. There is hereby established the New York city commission for the foster care of children (hereinafter referred to as the "commission") to consist of fifteen public members, who shall serve without compensation, to be appointed by the mayor from among residents of the city of New York who have been active in, identified with, or otherwise known to be interested in the field of child care. In making such appointments, the mayor shall make every effort to appoint individuals associated with the major federations concerned with foster care services to children and individuals who are associated with organizations which, through direct services to children, coordination or planning of services for children, or through research in the field of child care, are making major contributions to the planning of services for the children of the city of New York. The membership of the commission shall reflect disciplines basic to a wholesome child welfare program including mental health, education, religion, law with some specialty in family and child welfare, and pediatrics. The mayor may appoint, and at his or her pleasure remove, an executive director and an assistant to the executive director of the commission. The salary of the executive director and the assistant to the executive director shall be fixed by the mayor and shall be paid from appropriations made to the department. The said public members shall serve for a term of four years except that the term of office of the members first taking office shall expire, five at the end of two years, five at the end of three years and five at the end of four years. No member shall serve for more than eight consecutive years after July one, nineteen hundred sixty-four. The mayor shall appoint a chairperson and a vice chairperson from among the members, each to serve in that capacity for two year terms. Any public member appointed by the mayor to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

b. The commission shall meet at least once every month except during the months of July and August and shall

meet at such other times as meetings are called by the chairperson. Whenever requested to do so in writing by any six members of the commission, the chairperson shall call a special meeting of the commission. Full time professional and clerical assistance, properly qualified, shall be provided as required to the commission by the department.

c. The commission shall have the following powers and duties:

(1) Make recommendations to the commissioner and to the administrative judge of the family court of the state of New York within the city of New York on all phases of the foster care of children including recommendations designed to prevent the need for such care.

(2) Make recommendations to the appropriate authorities for the establishment of proper standards for the foster care of children, except insofar as such standards have been established pursuant to law by the board of health of the city of New York or the board of social welfare of the state of New York.

(3) Study and report the extent and nature of the facilities required to provide adequate foster care for children.

(4) Coordinate temporary care services and make recommendations as to the type of children and the age range to be admitted to any temporary shelter, in order that the needs of children may be served by the proper and adequate provision of accommodations, and so as to avoid duplication or overlapping of service.

(5) Individually or collectively visit temporary shelters in accordance with rules promulgated by the commission; recommend to the commissioner and to the administrative judge of the family court of the state of New York within the city of New York studies of foster care facilities with the cooperation of private agencies.

(6) Recommend that the department maintain such records and compile such statistics as the commission may deem desirable, subject to the approval of the commissioner.

(7) Through appropriate channels, advise foster care agencies and institutions receiving public funds on all matters relating to the development and modification of programs to meet changing foster care needs.

(8) Make appropriate recommendations to the commissioner and to the administrative judge of the family court of the state of New York within the city of New York for submission to the mayor on all matters affecting the foster care of children, annually or more often as required.

(9) Make appropriate recommendations to reduce insofar as possible the length of stay of children in temporary shelters.

d. Whenever required to do so by the commission or an authorized representative thereof, any public official or agency of the city of New York possessing information relating to the maintenance or operation of institutions or agencies for the care of children, or maintaining records with respect thereto, shall make such information and records available, and shall furnish transcripts or copies thereof, to the commission.

e. It shall be the function of this commission to utilize all methods provided by law to discourage and prevent any discrimination because of race, color or national origin in the foster care of children.

f. In relation to foster care of children the commission shall make appropriate recommendations for the enforcement of all provisions of laws relating to foster care including those laws which provide for the preservation and protection of the religious faith of the child to the end that whenever a child is placed or committed by the department or remanded or committed by the family court to any family or to any duly authorized association, agency, society, or institution, such placement, remand or commitment must be made, when practicable, to a family or to a duly authorized association, agency, society, or institution under the control of persons of the same religious faith or persuasion as that of the child; provided that any and all such foster care placements, whenever made, shall assure the preservation and

protection of the religious faith of the child.

g. Whenever used in this section the following terms shall mean or include:

(1) "Foster care for children." The care of abandoned, destitute, dependent, neglected or delinquent children or persons in need of supervision away from their own homes in institutions or foster homes or temporary shelters, in whole or in part at public expense, under the jurisdiction of a social services official or other authorized agency as defined in the social services law.

(2) "Temporary shelter." Any establishment or agency receiving public funds which is operated or maintained for the temporary care of destitute, dependent, neglected or delinquent children or persons in need of supervision.

(3) "Temporary care." Care of an abandoned, destitute dependent, neglected or delinquent child or person in need of supervision, in a temporary shelter for a brief and transient period, pending return of the child to its own home or placement in long-term care away from its own home.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B24-1.0 added LL 33/1946 § 1

Amended LL 95/1950 §1

Sub a amended LL 42/1951 § 1

Renumbered chap 100/1963 § 1

(formerly § 5(3)-1.0)

Subs a, f amended chap 100/1963 § 1

Amended LL 231/1964 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-119

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-119 Screening of child care services personnel by persons, corporations or other entities under contract with the city.

a. Each person, corporation, or other entity under contract with the city to provide child care services shall be responsible for the recruitment of appropriate personnel; verification of credentials and references; review of criminal record information; screening of all current and prospective personnel; and selection and hiring of all personnel necessary to furnish child care services. Screening shall include, but not be limited to (1) fingerprinting; (2) review of criminal convictions and pending criminal actions, provided that the contractor shall not dismiss or permanently deny employment to current and prospective personnel who are subjects of pending criminal actions, but may suspend such current personnel or defer employment decisions on such prospective personnel until disposition of the pending criminal action; (3) inquiry with the statewide central register of child abuse and maltreatment and; (4) for prospective personnel, inquiry with the applicant's three most recent employers. Each such contractor is hereby authorized and required to have all current and prospective personnel fingerprinted by an appropriate city agency.

b. As a condition of employment and continued employment, the contractor shall obtain written consent from all current and prospective child care services personnel for fingerprinting and criminal record review. Denial of such consent shall be grounds for dismissal or refusal to hire.

c. The department shall require appropriate documentation from the contractor indicating compliance with this section. The requirements of subdivisions a and b of this section shall be incorporated in contracts for child care services entered into by the city, and any violation thereof shall be a material breach of the contract sufficient to cause termination.

d. For purposes of this section, "personnel" shall include day care employees, family day care providers and members of their households, and head start employees.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-5.0 added LL 60/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-120

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-120 Training in detection and the dissemination of information about child abuse.

a. In addition to any other requirement pursuant to any other law or regulation, the department shall provide training in the detection and reporting of child abuse for all appropriate current and prospective day care and head start personnel.

b. The department shall issue and circulate an appropriate publication containing information with respect to child abuse. Such information shall be distributed to all providers of child day care services and to the parent or guardian of, or person legally responsible for, each child receiving day care services. Such publication shall contain the emergency telephone number to report suspected child abuse.

c. The department shall establish a telephone number to provide assistance and information with respect to child abuse and shall publicize the telephone number and require that such number be prominently displayed in all child day care centers.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 604-5.1 added LL 62/1984 § 1

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NYC Administrative Code 21-120.1

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-120.1 Family child care and group family child care.

a. Definitions. For the purposes of this section, the following definitions shall apply:

1. "Family child care provider" shall mean an individual who is registered pursuant to section three hundred ninety of the social services law.

2. "Group family child care provider" shall mean an individual who is licensed pursuant to section three hundred ninety of the social services law.

3. "Administration" shall mean the administration for children's services.

4. "Child care provider" or "provider" shall mean a family child care provider or a group family child care provider.

5. "Authorized family child care service" shall mean an individual, association, corporation, partnership, institution, organization, or other entity that has been designated by the administration, or other appropriate agencies of the city and in consultation with the administration, as qualified to inspect the home of a family child care provider or group family child care provider seeking eligibility to provide subsidized child care, assist in bringing such provider into full compliance with all applicable laws, regulations and rules in order for such family child care provider or group family child care provider to be designated as eligible to provide subsidized child care and/or monitor the performance of a child care provider that is providing subsidized child care.

6. "Subsidized child care" shall mean all child care services provided by a child care provider paid for wholly or partially with public funds, where payment is made by or pursuant to grants or contracts with a child care provider or authorized family child care service or by issuance of a child care certificate to a parent.

7. "Child care certificate" shall mean a certificate or voucher that is issued directly to a parent who may use such certificate or voucher only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider.

8. "Parent" shall mean a custodial parent, legal guardian or other person having legal custody of a child.

b. The administration shall perform the tasks and provide the services described in this subdivision with respect to providers of subsidized child care provided, however, that such tasks and services may be delegated to an authorized family child care service to the extent permitted by law:

1. monitoring the care provided to each child and ensuring that each child's individual needs are being met, identifying children in need of further evaluation and making appropriate referrals for individual or family-related services;

2. inspecting a child care provider's home within thirty days of the placement of the first child receiving subsidized child care with that child care provider for the purpose of determining that such child care provider meets the requirements of section three hundred ninety of the social services law, the regulations promulgated thereunder, and any plan approved pursuant to section three hundred ninety of the social services law, and that the child care provider is capable of providing safe and suitable care to children which is supportive of their physical, intellectual, emotional and social well-being. When the inspection is to be conducted by an authorized family child care service, the child care provider shall furnish to such authorized family child care service a true copy of the provider's completed application form and all other supporting documents and related materials in the provider's possession. However, this paragraph shall not apply to those providers of subsidized child care who were providing such care prior to the effective date of this section and received payment for such care exclusively through child care certificates;

3. arranging for a visit to a child care provider's home by a parent prior to the placement of such parent's child receiving subsidized child care with that child care provider for the purpose of determining that such child care provider is capable of providing safe and suitable care which is supportive of that child's physical, intellectual, emotional and social well-being;

4. inspecting the operation of every home where subsidized child care is provided no less than five times each year, which shall be in addition to and separate and distinct from any visits performed pursuant to paragraph (3) of this subdivision or mandated by the United States department of agriculture pursuant to the child and adult care food program, for the purpose of ensuring that child care is provided in accordance with the requirements of all applicable laws, regulations and rules, provided, however, that twenty percent of those providers of subsidized child care who are providing such child care on the effective date of this section and receive payment for such child care exclusively through child care certificates shall be inspected each month following approval of the provisions of this paragraph by the New York state office of children and family services, so that each such provider shall be inspected within five months subsequent to such approval, and all such providers shall be inspected four additional times during the first year following such approval;

5. inspecting the operation of every home where subsidized child care is provided no less than two times during the first six months in which a child care provider is providing subsidized child care and at least one additional time during the next six months, which shall be in addition to and separate and distinct from any visits and inspections required by paragraphs (2), (3) and (4) of this subdivision, except that this paragraph shall not apply to a provider who is participating in the child and adult care food program of the United States department of agriculture and those providers of subsidized child care who were providing such child care prior to the effective date of this section and

received payment for such child care exclusively through child care certificates;

6. in addition to and separate and distinct from those visits and inspections required by paragraphs (3) and (4) of this subdivision, inspecting the operation of every home where subsidized child care is provided no less than two times during the first six months after the provider has had eligibility to provide subsidized child care restored subsequent to the effective date of this paragraph or has been adjudicated to have violated any provision of any applicable law, regulation or rule unless it is determined at the time the violation is adjudicated that the violation (a) did not adversely affect public health, (b) did not relate to on-site sanitation, fire hazards or safety hazards, (c) did not relate to staff qualifications or program requirements and (d) did not relate to the discipline, supervision or nutrition of any child in the provider's care. The administration shall also perform such additional inspections as it determines are necessary for it to establish that a provider whose eligibility to provide subsidized child care has been restored is capable of providing safe and suitable care to children which is supportive of their physical, intellectual, emotional and social well-being and to establish that any violations of the type described in this paragraph have been corrected.

7. assisting in the collection and review of medical and immunization information which is required to be maintained for all children for which the provider is providing subsidized child care and the monitoring of those medical and immunization requirements;

8. providing instruction and training to child care providers, as needed, in order to comply with all applicable laws, regulations and rules;

9. assisting in the establishment and maintenance of all files necessary for the administration and any city agency acting on behalf of the state of New York to oversee the activities of the provider and to assist the provider in complying with all applicable laws, regulations and rules including the maintenance of attendance records;

10. assisting applicants and providers in properly preparing applications for licensing and registration and for the renewal of a license or registration;

11. assisting every child care provider in creating and maintaining a file containing fingerprint records of such provider and fingerprint records of every employee of such child care provider, any volunteer acting on behalf of such child care provider and any member of the household of such child care provider who is sixteen years of age and older, and overseeing the activities of each such provider to assure that fingerprint records are maintained for each person in a category described herein;

12. monitoring the files required to be maintained by every child care provider containing medical records of such provider and medical records of every employee of such child care provider, any volunteer acting on behalf of such child care provider and any member of the household of such child care provider and overseeing the activities of each such provider to assure that medical records containing the most up-to-date information are maintained for each person in a category described herein;

13. making determinations as to whether an individual who has submitted an application to be registered or licensed as a child care provider or a registered or licensed child care provider will be able to provide family child care or group family child care in accordance with all applicable laws, regulations, rules, and any plan approved pursuant to section three hundred ninety of the social services law and, where appropriate, designating such provider as eligible to provide subsidized child care. In making such a determination, the administration shall consider, but is not limited to considering, the following:

(i) that clearance with the State Central Register of Child Abuse and Maltreatment has been completed for the applicant or child care provider, every employee of such child care provider, volunteer acting on behalf of such child care provider and for any person eighteen years of age or older who resides in the home of such applicant or child care provider;

(ii) whether the applicant or child care provider, every employee of such child care provider, volunteer acting on behalf of such child care provider or any person residing in the applicant's or child care provider's household who is sixteen years of age or older has a record of criminal conviction, to the extent such information is available;

(iii) that the applicant or child care provider and every employee of such child care provider, volunteer acting on behalf of such child care provider and all other members of the household have had a health examination and been examined for tuberculosis within the previous twelve months;

(iv) that the child care provider maintains a register, or an approved equivalent, in a form to be provided by the New York state office of children and family services or provided for such purpose by another city or state office showing for each child for whom child care is provided:

(a) the name and date of birth of such child;

(b) the names and addresses of his or her parents, including designated emergency contact persons and their telephone numbers; and

(c) such other information as may be required by the state office of children and family services or other appropriate agency or office;

(v) that the child care provider has received or shall receive not less than the training required by section three hundred ninety-a of the social services law and any regulations promulgated pursuant thereto or the plan approved pursuant to paragraph f of subdivision three of section three hundred ninety of the social services law where such plan establishes different training requirements;

(vi) that children in child care have received or will receive instruction, consistent with their age, needs and circumstances as well as the needs and circumstances of the child care provider, in techniques and procedures which will enable such children to protect themselves from abuse and maltreatment; and

(vii) that the child care provider has a daily program that meets all applicable requirements set forth in parts 416 and 417 of title eighteen of the official compilation of the codes, rules and regulations of the state of New York, or any superseding regulations;

14. providing technical assistance to a child care provider in order to assure compliance with all applicable laws, regulations and rules and other services to ensure safe and suitable care to children which is supportive of their physical, intellectual, emotional and social well-being;

15. assisting parents in choosing an appropriate child care provider from among the child care providers eligible to provide subsidized child care;

16. providing detailed written information about the child and adult care food program operated by or on behalf of the United States department of agriculture to every provider of subsidized child care who is not enrolled in such program and to every applicant seeking to become a provider of subsidized child care at the time such application is submitted; and

17. encouraging providers and applicants to enroll in the child and adult care food program and assisting such persons in enrolling and to offer child care during times of day or days that enhance the capacity of parents to seek out and avail themselves of employment and educational opportunities.

c. In the event that an authorized family child care service obtains information that a provider of subsidized child care cannot provide or is not providing child care in accordance with the requirements of all applicable laws, rules and regulations, the authorized family child care service shall immediately provide the administration with such

information. If the administration concludes that safe and suitable care to children which is supportive of their physical, intellectual, emotional, and social well-being cannot be or is not being provided, such child care provider shall not be eligible to provide subsidized child care in such home. The administration shall not continue to subsidize through any mechanism the child care of children in such home until such time as the administration has determined that such child care provider can provide such safe and suitable care.

d. 1. Not later than sixty days following the effective date of this section, the administration shall submit in accordance with section three hundred ninety of the social services law a plan or all amendments to any existing plan necessary to make such plan consistent with the provisions of this section, together with an explanation justifying the need to impose additional requirements upon providers of subsidized child care and a plan to monitor compliance with such additional requirements and all applicable laws, regulations and rules.

2. The plan submitted by the administration shall request authority for the administration to provide the training mandated by section 390-a of the social services law or the plan or delegate the provision of such training to an authorized family child care service. The administration shall include in this request an application for the release of such funds as may be available for such training within the city of New York. The authority of the administration to provide training under such a plan shall be contingent upon granting of the authority and the release of funds from the state.

3. The plan submitted by the administration shall also include provisions imposing upon every provider of subsidized child care the following requirements:

(i) such child care provider's home shall be made available for inspection by the administration or an authorized family child care service for the purpose of determining that such child care provider meets the requirements of section three hundred ninety of the social services law, the regulations promulgated thereunder and any plan approved pursuant to section three hundred ninety of the social services law and that the child care provider is capable of providing safe and suitable care to children which is supportive of their physical, intellectual, emotional and social well-being. When the inspection is to be conducted by an authorized family child care service, the child care provider shall furnish to such authorized family child care service a true copy of the provider's completed application form and all other supporting documents and related materials in the provider's possession;

(ii) when it is determined that the home of a child care provider who desires to provide subsidized child care is not in full compliance with all applicable laws, regulations and rules, the child care provider shall bring such home into full compliance with all applicable laws, regulations and rules;

(iii) a child care provider shall be eligible to provide subsidized child care only if such provider will:

(a) personally provide the child care in the provider's own home; (b) be the only provider of child care in that home; and

(c) provide assistant caregivers in a group family child care home with any and all employment benefits as may be required by state and federal law, including paying such caregivers at least the minimum wage set forth in article nineteen of the labor law;

(iv) ensure that each caregiver and any assistant caregiver has received or will receive not less than fifteen hours of training within the first year of their registration or licensure, and each biennial period thereafter, which training shall begin prior to or within the first three months after the placement with such child care provider of the first child whose child care is subsidized through attending or completing programs that upon completion provide six hours of training. Such training shall include, but shall not be limited to, the following topics:

(a) principles of early childhood development;

(b) nutrition and health needs of infants and children;

(c) child care program development;

(d) safety and security procedures;

(e) business record maintenance and management;

(f) child abuse and maltreatment identification and prevention;

(g) all laws, regulations and rules pertaining to child care and child abuse and maltreatment.

e. Within sixty days of receipt of written approval of the plan or amendments to any existing plan submitted pursuant to subdivision d of this section, the administration shall take all steps necessary to implement such plan or amended plan and monitor compliance by child care providers and any authorized family child care service.

f. In drafting a plan or amendments to any existing plan as required by subdivision d of this section, the administration shall include such other provisions as are necessary to implement the requirements of this section.

g. In the event that any portion of the plan or any of the proposed amendments to an existing plan submitted pursuant to subdivision d of this section is not approved, that disapproval shall not affect any other provision of such plan or amendment and each provision shall be implemented and enforced to the extent approved by the state.

h. Nothing in the plan submitted pursuant to subdivision d of this section is intended to be nor shall it be construed in such a manner as to be inconsistent with any provision of federal law or any regulation promulgated thereunder, nor shall be it be construed as affecting any provision of section three hundred ninety of the social services law and any regulations promulgated thereunder authorizing any enforcement activity against a child care provider including, but not limited to, a proceeding to suspend, revoke, limit or terminate a license or registration to provide child care. If any provision is so construed by a court of law or if a written determination or other notice is issued by a state or federal agency or office that there will be a significant loss of funding as a result of any provision, such provision shall be null and void.

HISTORICAL NOTE

Section added L.L. 31/2000 § 1, eff. July 1, 2000 with special provisions.

[See Note]

DERIVATION

Formerly section added L.L. 45/1992 § 1, eff. July 7, 1992 and expiring

Oct. 15, 1999 per L.L. 37/1999 (picks up L.L. 12/1999)

NOTE

Provisions of L.L. 31/2000:

§2. If any clause, sentence, item, paragraph or section added by this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, item, paragraph or section thereof directly involved in the controversy in which such judgment shall have been rendered.

§3. This local law shall take effect on the first day of July 2000, provided, however, that the New York city

administration for children's services shall take such steps as are necessary, including the promulgation of rules, for the implementation of this local law prior to such effective date and the administration for children's services may prior to such effective date submit to the New York state office of children and family services or other appropriate agency or office a plan or all amendments to any existing plan pursuant to section 390 of the social services law necessary to make such plan consistent with the provisions of this law.

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-120.2 Home care services.

Not later than January 1, 1993, pursuant to social services law section 367-n(3), the commissioner of social services shall submit to the state departments of social services and health a request for a waiver, in lieu of a delegation plan, from the requirement of social services law section 367-n(2).

HISTORICAL NOTE

Section added L.L. 99/1992 § 2, eff. Dec. 22, 1992.

NOTE

Provisions of L.L. 99/1992:

Section 1. Declaration of intent. The Council finds that the case-management model is the preferred way in which to deliver social services to the people of the City of New York. This is particularly true of the Community Alternatives System Agency (CASA) because, while the Council strongly supports a proper mix of private and public delivery of social services, a case-management model, as exemplified by CASA, provides a desirable system for monitoring the delivery of social services by private vendors so as to ensure that public monies are being properly expended and that needed services are being efficiently delivered.

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NYC Administrative Code 21-120.3

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-120.3 Temporary task force on child care funding.

a. Not later than thirty days from the effective date of this section as amended, there shall be a temporary task force on child care funding established by the mayor which shall consist of representatives of each city agency authorized to license, permit, fund, or otherwise regulate child care facilities or services and such other persons as shall be provided for in this section. City agency representatives to such task force shall include, but shall not be limited to, representatives of the human resources administration and the department of health and mental hygiene. The comptroller of the city of New York may designate a representative to serve on such task force. Additional members of such task force shall be appointed as follows: five members appointed by the speaker of the council and six, including the chairperson of the task force, by the mayor. Such additional members of the task force shall include, but shall not be limited to, representatives of child care providers. The members of the task force, including the chairperson, shall serve without compensation.

b. Not later than seven months from the effective date of this section as amended, the temporary task force on child care funding shall submit a report to the mayor and the speaker of the council. Such report shall include, but shall not be limited to: (1) identification of the current public and private funding sources for child care facilities and services; (2) analysis of the allocation and use of the public funds provided to such child care facilities and services; (3) recommendations to improve the funding of such child care facilities and services; and (4) recommendations to eliminate or reduce the duplication and fragmentation of child care services and otherwise enhance the efficiency, effectiveness and economy of service delivery.

c. During its deliberations, the task force may invite the participation of child care providers, parents of children enrolled in child care programs and not-for-profit child advocacy organizations. To facilitate such deliberations, the task

force shall hold a minimum of two public hearings, one of which shall be held in the evening to permit greater parental participation.

HISTORICAL NOTE

Section amended L.L. 41/1994 § 1, eff. Oct. 26, 1994.

Section added L.L. 95/1993 § 1, eff. Dec. 16, 1993.

Subd. a amended L.L. 22/2002 § 45, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

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NYC Administrative Code 21-121

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-121 [Reserved] § 21-122

[Reserved]

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-123 Temporary commission on childhood and child caring programs.

a. There is hereby established a temporary commission on childhood and child caring programs consisting of fifteen members. The mayor shall appoint nine members, one of whom shall serve as chairperson. The speaker of the council shall appoint six members. None of the fifteen members appointed by the mayor or the speaker shall be elected officials or employees of the city of New York. In addition, the president of the council, the comptroller, the human resources administrator, the chancellor of the board of education of the city, the chairperson of the general welfare committee of the council, the commissioner of the department of health and mental hygiene of the city, the commissioner of the department of mental health of the city, the speaker of the council or his or her representative, and a representative from the office of the mayor shall each serve as a non-voting, ex-officio member of the commission or shall designate a person to serve in his or her place. The commissioner of the department of social services of the state of New York may, at his or her discretion, serve as a non-voting, ex-officio member of the commission or designate a person to serve in his or her place. Such commission shall have a duration of nine months. The members of the commission shall be appointed within thirty days of the effective date of this section. Each member, including each ex-officio member, shall serve without compensation for the duration of the commission.

b. The commission may appoint an executive director to serve at its pleasure and may employ or retain such other employees and consultants as are necessary to fulfill its functions, within appropriations for such purposes.

c. On or before the thirtieth day of September nineteen hundred ninety-one, the commission shall issue a report to the mayor and the council. The report shall make specific recommendations with respect to the areas listed below and shall include an assessment of the fiscal implications of such recommendations:

1. The role of childhood and child caring programs in education; 2. The role of childhood and child caring programs in providing support to families;

3. The role of childhood and child caring programs in community development;

4. The role of childhood and child caring programs for children with special needs, including, but not limited to, children with mental and physical disabilities, homeless children and children in need of preventive services;

5. The role of childhood and child caring programs in welfare reform;

6. The role of employers in the public and private sectors in providing childhood and child caring programs;

7. Methods to increase the number of licensed day care facilities and family day care providers and to recruit and retain personnel for childhood and child caring programs, including, but not limited to, tax incentives;

8. Methods to obtain additional resources for childhood and child caring programs and to improve the allocation of existing resources;

9. Methods to make childhood and child caring programs affordable for more families; and

10. The need, if any, to change licensing standards to promote childhood and child caring programs.

d. Notwithstanding subdivision a of this section, the mayor shall appoint four additional members to the commission, and the speaker of the council shall appoint two additional members. None of the members appointed pursuant to this subdivision shall be elected officials or employees of the city of New York. Each additional member shall serve without compensation for the duration of the commission.

HISTORICAL NOTE

Section added L.L. 16/1990 § 2 eff. May 21, 1990. [See Note.]

Subd. a amended L.L. 22/2002 § 46, eff. July 29, 2002 and deemed in

effect as of July 1, 2002.

Subd. a amended L.L. 27/1991 § 1, eff. Apr. 24, 1991.

Subd. c amended L.L. 27/1991 § 2, eff. Apr. 24, 1991.

Subd. d amended L.L. 27/1991 § 3, eff. Apr. 24, 1991.

NOTE

Provisions of L.L. 16/1990 § 1.

Section 1. Legislative findings. The council finds that the future of our city and of society at large rests with our children and that their education and care are therefore of paramount importance. The council finds that programs of education and care of children may improve the quality of the life of children, their parents and guardians. Such programs can play a significant role in improving the performance of children in schools, in providing support to families, in strengthening the community, in assisting children with special needs, such as disabled or homeless children, and in creating effective forms of public assistance. The council finds that employers in both the public and private sectors have a responsibility to the children of our city and should respond to incentives to provide childhood and child caring programs. It is therefore desirable to establish a temporary commission, the members of which are to be selected from such diverse groups as the business community, organized labor, the clergy, and the fields of

education, science and the social sciences, for the purpose of conducting research and reporting to the mayor and the council on the status of day care and early childhood educational programs in the city and ways in which such programs may be improved, expanded and coordinated.

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NYC Administrative Code 21-124

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CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-124 Prohibiting the use of Tier I shelters.

a. The city shall not establish henceforth any Tier I shelters as defined in 18 NYCRR § 900.2 through § 900.18. After September 30, 1991, the city of New York shall not operate any Tier I shelters.

b. 1. No homeless family shelter shall be established which does not provide a bathroom, a refrigerator and cooking facilities and an adequate sleeping area within each unit within the shelter and which otherwise complies with state and local laws. All Tier II shelter units shall be such that they may be converted to be used for permanent housing with a minimum of structural change.

2. The following units are exempted or partially exempted from the provisions of paragraph one of this subdivision: (i) the Tier II units presently in operation shall be exempt; (ii) the 2,450 units of Tier II shelter housing currently in the construction pipeline shall be exempt; and (iii) units in facilities for battered women or substance and alcohol abusers which meet all state requirements for such programs may provide congregate dining and bathing arrangements.

3. The requirements of this subdivision shall not apply in cases where the provisions of § 21-121(3) are invoked.

c. Until June 30, 1992, notwithstanding any provision of this section, the mayor may authorize homeless families to be sheltered in any facility approved by the appropriate state authority for such purpose upon a finding by the commissioner that the city has more homeless families in need of shelter than the system can accommodate, for the following reasons:

(1) the pattern of length of stay of families entering the system each month shows that the length of stay is increasing over time;

(2) the city has experienced unexpected impediments to the construction or rehabilitation of permanent or transitional housing units, including, but not limited to work stoppages, natural disasters, unanticipated site conditions relating to such matters as soil conditions, contractor delays, availability of sewers, or the presence of asbestos which requires remedial action;

(3) the city has not obtained necessary approval for sites selected for facilities to shelter homeless families;

(4) construction or rehabilitation of permanent or transitional housing for homeless families has been and continues to be enjoined by court order;

(5) an emergency such as a flood, earthquake or fire, or a medical emergency as certified by the commissioner of health, has rendered existing shelters unsuitable for use to house homeless families;

(6) the number of homeless families requesting emergency housing exceeds the capacity of the system at any point in time; or

(7) any other emergency circumstance. Such finding shall be made in writing and shall specify the time the commissioner anticipates will be needed for the city to meet the requirements of subdivisions a and b. Such finding shall be delivered promptly, and, when practicable, prior to the use of facilities pursuant to this subdivision, to the mayor, the speaker of the council, any council member in whose district families are to be sheltered pursuant to this subdivision, and to the families who receive shelter in facilities not meeting the requirements of subdivisions a and b. Within fifteen days of having made such finding, and at such other times as the council may request, the mayor shall report to the council on the plans to meet the requirements of subdivisions a and b and the progress that has been made in implementing such plans. The commissioner shall insure that the social service and medical needs of families sheltered pursuant to this subdivision shall be met in accordance with state regulations in 18 NYCRR § 900.2 through § 900.18 for Tier II shelters. Notwithstanding any provision of this paragraph, between September 30, 1991 and June 30, 1992, the shelters located at 282 East 3rd Street and 151 East 151st Street may be used for families except for homeless families with children.

d. Notwithstanding the provisions of this section, on and after July 1, 1992, the commissioner of social services, after consultation with the speaker of the council, may certify that an emergency exists, pursuant to the criteria expressed in subdivision c, that requires the use of tier I shelters to meet legal mandates to provide shelter for homeless persons and, upon transmission of such certification for publication in the City Record together with a statement of the reasons therefor, which shall include a statement and documentation that there is no other alternative form of shelter available that complies with state and local regulations including invoking the powers under § 21-121(3), may direct the use of such tier I shelters which are consistent with state and local laws as are necessary to meet the emergency; provided, however, that the commissioner of social services may not utilize a tier I shelter for more than forty-five days unless a local law shall be enacted permitting such use for the shelter.

HISTORICAL NOTE

Section added L.L. 18/1990 § 1 eff. June 6, 1990. [See Note.]

NOTE

Provisions of L.L. 18/1990 § 2.

§ 2. By June 30, 1992, the mayor shall submit a report to the council analyzing whether it is feasible for the city to use the shelters located at 39 Auburn Place (Brooklyn) and 78 Catherine Street (Manhattan) for the homeless or any

other population other than homeless families with children and homeless couples in which the woman is pregnant.

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NYC Administrative Code 21-124.1

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-124.1 Homeless diversion teams.

The commissioner shall fully staff "homeless diversion teams" at each income support center and emergency assistance unit except those that exclusively service individuals. Such homeless diversion teams shall screen families who present themselves as being homeless and in need of transitional housing in an effort to assist those who can to return to former housing situations. Beginning on October 1, 1995 and on the first day of each succeeding calendar quarter thereafter, the commissioner shall report to the speaker of the city council in writing on the homeless diversion teams including, but not limited to, the following information aggregated on a quarterly and fiscal year annualized basis;

a. the number of clients interviewed;

b. the number of clients diverted, how and to where diverted; and

c. the number of clients who presented themselves as homeless during the reporting period subsequent to a diversion and the number of days since such initial diversion.

HISTORICAL NOTE

Section renumbered L.L. 57/1998 § 9, eff. Dec. 17, 1998 and deemed

in force June 30, 1998 (Formerly § 21-124)

Section added L.L. 75/1995 § 3, eff. Sept. 22, 1995, retroactive to Sept.

6, 1995.

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-125 Computer linkages to any emergency assistance unit and assessment center.

[Expired]

HISTORICAL NOTE

Section added L.L. 75/1995 § 3, eff. Sept. 22, 1995, retroactive to Sept. 6, 1995. Section expired July 1, 1998 as per L.L. 75/1995 § 4.

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NYC Administrative Code 21-126

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-126 Division of AIDS services.

There shall be a division of AIDS services within the New York city department of social services. Such division shall provide access to benefits and services as defined in section 21-128(a)(1) of this chapter to every person with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or with AIDS, as defined by the federal centers for disease control and prevention, who requests assistance, and shall ensure the provision of benefits and services to eligible persons as defined in section 21-128(a)(3) of this chapter with clinical/symptomatic HIV illness or with AIDS.

HISTORICAL NOTE

Section added L.L. 49/1997 § 1, eff. July 11, 1997.

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***** Current through December 2009 ****

NYC Administrative Code 21-127

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-127 Case management and allowances.

The commissioner shall direct staff of the division of AIDS services to provide to persons with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or persons with AIDS, as defined by the federal centers for disease control and prevention, who satisfy the income eligibility requirements for medicaid as set forth in section 1396 et. seq. of title 42 of the United States code: (i) intensive case management with an average ratio which shall not exceed one caseworker or supervisor to twenty-five family cases, and with an overall average ratio for all cases which shall not exceed one caseworker or supervisor to thirty-four cases; and (ii) transportation and nutrition allowances. Such transportation and nutrition allowances shall be provided to each such person in an amount not less than the amount per person provided on the effective date of the local law that added this section. Notwithstanding the requirements of this section, in the event of a material reduction in the state of New York's funding allocation, the council and the mayor may modify such amount of allowances pursuant to section 107 or sections 254, 255 and 256 of the charter of the city of New York.

HISTORICAL NOTE

Section added L.L. 49/1997 § 1, eff. July 11, 1997.

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NYC Administrative Code 21-128

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-128 Benefits and services to be provided to persons with clinical/symptomatic HIV illness or with AIDS.

a. Whenever used in this section, the following terms shall be defined as follows:

1. "Access to benefits and services" shall mean the provision of assistance by staff of the division to a person with clinical/symptomatic HIV illness or with AIDS at a single location in order to apply for publicly subsidized benefits and services, to establish any and all elements of eligibility including, but not limited to, those elements required to be established for financial benefits, and to maintain such eligibility and shall include, but not be limited to, assistance provided at a field office of the department, at the home of the applicant or recipient, at a hospital where such applicant or recipient is a patient or at another location, in assembling such documentation as may be necessary to establish any and all elements of eligibility and to maintain such eligibility;

2. "Completed application" means:

(a) the date on the client's receipt indicating that the application is complete pursuant to paragraph 2 of subdivision c of this section; or

(b) where no receipt is provided, the date on which the client has provided the division with all of the information and documentation necessary to complete the client's application for a benefit or service; or

(c) in the case of a separate determination of eligibility for medicaid or food stamps, the date on which a person's application for public assistance was denied or a recipient's public assistance case was closed.

3."Division" shall mean the division of AIDS services as established pursuant to § 21-126 of this chapter, or its functional or legal equivalent; 4. "Eligible person" shall mean a person who satisfies the eligibility requirements established pursuant to applicable local, state or federal statute, law, regulation or rule for the benefits and services set forth in subdivision b of this section or for any other benefits and services deemed appropriate by the commissioner;

5. "Immediate needs grant" means a pre-investigation grant provided to a person who appears to be in immediate need;

6. "Legally mandated time frame" means the time period within which a benefit or service must be provided to an eligible applicant under federal, state or local law, rule, regulation or by order of a court of competent jurisdiction;

7. "Medically appropriate transitional and permanent housing" shall mean housing which is suitable for persons with severely compromised immune systems, and if necessary, accessible to persons with disabilities as defined in section 8-102 of this code. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall, at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy;

8. "Non-emergency housing" shall mean housing provided or administered by the division, including but not limited to programs referred to as scatter site I housing, scatter site II housing and congregate housing;

9. "Person with clinical/symptomatic HIV illness or with AIDS" shall mean a person who has at any time been diagnosed with clinical/symptomatic HIV illness, as determined by the New York state department of health AIDS institute, or a person with AIDS, as defined by the federal centers for disease control and prevention;

10. "Processing time for applications for benefits or services" means the length of time required to process an application for benefits or services administered by the division, which shall not be represented in terms of averages, but shall be reported in terms of categories covering various periods of time as follows:

(a) for non-emergency applications for food stamps, medicaid and public assistance benefits: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 65 days; 66 to 75 days; and more than 76 days;

(b) for immediate needs grants and expedited food stamps: same day; 1 to 5 days; 6 to 10 days; 11 to 17 days; and more than 18 days;

(c) for all other non-emergency benefits and services, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 75 days; and more than 76 days;

(d) for all other benefits and services provided on an emergency basis, including benefits and services currently referred to as "emergency CBCFAs": (i) in reporting the time frame from completed application to approval or denial: 0 to 2 days; 3-5 days; 6-10 days; 11-15 days; and more than 16 days; and (ii) in reporting the time frame from approval to provision of the benefit: 0-1 days; 2-5 days; 6-10 days; 11-15 days; and more than 16 days; and

(e) for applications for non-emergency housing: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 75 days; 76 to 100 days; and more than 100 days.

11. "Separate determination of eligibility for medicaid or food stamps" means a determination regarding eligibility for medicaid or food stamps made either when a person's application for public assistance has been denied or when a recipient's public assistance case is closed.

b. The commissioner shall direct staff of the division of AIDS services to provide access to benefits and services to every eligible person with clinical/symptomatic HIV illness or with AIDS who requests assistance, and shall ensure

the provision of benefits and services to eligible persons with clinical/symptomatic HIV illness and with AIDS. Any eligible person shall receive only those benefits and services for which such person qualifies in accordance with the applicable eligibility standards established pursuant to local, state or federal statute, law, regulation or rule. Such benefits and services shall include, but not be limited to: medically appropriate transitional and permanent housing; medicaid, as set forth in section 1396 et. seq. of title 42 of the United States code and other health-related services; home care and home health services as set forth in sections 505.21 and 505.23 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; personal care services as set forth in section 505.14 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; homemaker service as set forth in part 460 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; food stamps, as set forth in section 2011 et. seq. of title 7 of the United States code; transportation and nutrition allowances as required by section 21-127 of this chapter; housing subsidies, including, but not limited to, enhanced rental assistance as set forth in section 397.11 of title 18 of the official compilation of the codes, rules and regulations of the state of New York; financial benefits; and intensive case management as required by section 21-127 of this chapter. The commissioner shall have the authority to provide access to additional benefits and services and ensure the provision of such additional benefits and services whenever deemed appropriate. The requirements with respect to such access to and eligibility for benefits and services shall not be more restrictive than those requirements mandated by state or federal statute, law, regulation or rule. Within thirty days of the effective date of the local law that added this section, the commissioner shall establish criteria pursuant to which an applicant shall be entitled to a home or hospital visit for the purpose of establishing eligibility and applying for benefits and services.

c. 1. Upon written or oral application to the division for benefits and services or submission of documents required to establish eligibility for benefits and services by a person with clinical/symptomatic HIV illness or with AIDS, such person shall immediately be provided with a receipt which shall include, but not be limited to, the date, a description of the information received, and a statement as to whether any application for such benefits and services is complete or incomplete, and if incomplete, such receipt shall identify any information or documents needed in order for the application to be deemed complete.

2. Processing of applications for medically appropriate non-emergency housing.

(a) Unless the client shall decline, the division shall provide the following to every homeless client of the division on the day the client is determined to be eligible for services as a client of the division:

(i) an application for medically appropriate non-emergency housing; and

(ii) information regarding financial assistance available to assist eligible clients in obtaining housing and regarding available housing options.

(b) The division shall ensure that every client receives any assistance needed to complete the application for medically appropriate non-emergency housing within 10 business days of the day on which the client is determined to be eligible for services as a client of the division.

(c) Within 90 days of initial placement in emergency housing or of completion of the physical documentation required from the client for the application for non-emergency housing, whichever is sooner, the division must provide every client who is eligible for non-emergency housing a referral to an available medically appropriate non-emergency housing option, which takes into consideration the medical, educational and familial needs and social circumstances of the client, to the extent such option is available.

(d) For any client who remains homeless or in emergency housing for over 45 days after the requirements of subparagraph (c) of this paragraph or the requirements of this subparagraph have been met, the division shall provide a referral to another medically appropriate non-emergency housing option, to the extent such option is available.

3. Where no statute, law, regulation or rule provides a time period within which a benefit or service shall be

provided to an eligible person who requests such a benefit or service, such benefit or service shall be provided no later than twenty business days following submission of all information or documentation required to determine eligibility.

d. Where a person with clinical/symptomatic HIV illness or with AIDS who applies for benefits and services, or access to benefits and services, indicates that one or more minor children reside with him or her or are in his or her care or custody, such person shall be given information and program referrals on child care options and custody planning, including the availability of standby guardianship pursuant to section 1726 of the surrogate's court procedure act of the state of New York and referral to legal assistance programs.

e. Recertification of eligibility, as required by any state or federal law, statute, regulation or rule shall be conducted no more frequently than mandated by such statute, law, regulation or rule.

f. Eligibility for benefits and services for persons with clinical/symptomatic HIV illness or with AIDS may not be terminated except where the recipient is determined to no longer satisfy eligibility requirements, is deceased, or upon certification by the commissioner that the recipient cannot be located to verify his or her continued eligibility for benefits and services. In the latter circumstance, the division shall conduct a reasonable good faith search for at least a ninety-day period to locate the recipient, including sending written notice by certified mail, return receipt requested, to the last known address of such recipient, requiring the recipient to contact the division within ten days.

g. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall prepare a draft policy and procedures manual for division staff. Such policy and procedures manual shall include, but not be limited to, strict guidelines on maintaining the confidentiality of the identity of and information relating to all applicants and recipients, instructional materials relating to the medical and psychological needs of persons with clinical/symptomatic HIV illness or with AIDS, application procedures, eligibility standards, mandated time periods for the provision of each benefit and service available to applicants and recipients and advocacy resources available to persons with clinical/symptomatic HIV illness or with AIDS. Such list of advocacy resources shall be updated semi-annually. Within thirty days following the preparation of such draft policy and procedures manual and prior to the preparation of a final policy and procedures manual, the commissioner shall distribute such draft policy and procedure manual to all social service agencies and organizations that contract with the department to provide HIV-related services and to all others whom the commissioner deems appropriate, and hold no fewer than one noticed public hearing at a site accessible to the disabled, at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft policy and procedures manual. The commissioner shall prepare a final policy and procedures manual within thirty days after the conclusion of such hearing and shall thereafter review and where appropriate, revise such policy and procedures manual on an annual basis. The commissioner shall provide for semi-annual training, using such policy and procedures manual, for all division staff.

h. Not later than sixty days from the effective date of the local law that added this section, the commissioner shall publish a proposed rule establishing a bill of rights for persons with clinical/symptomatic HIV illness or with AIDS. Such draft bill of rights shall include, but not be limited to, an explanation of the benefits and services for which persons with clinical/symptomatic HIV illness or with AIDS may be eligible; timetables within which such benefits and services shall be provided to eligible persons; an explanation of an applicant's and recipient's right to examine his or her file and the procedure for disputing any information contained therein; an explanation of an applicant's and recipient's right to a home or hospital visit for the purpose of applying for or maintaining benefits or services; an explanation of the process for requesting a division conference or New York state fair hearing; and a summary of the rights and remedies for the redress of discrimination as provided for in title eight of this code. Within sixty days following the publication of such proposed rule, and prior to the publication of a final rule, the commissioner shall hold no fewer than one noticed public hearing at a site accessible to the disabled at which advocates, service providers, persons who have tested positive for HIV, and any other member of the public shall be given an opportunity to comment on such draft bill of rights. The commissioner shall publish a final rule within thirty days after the conclusion of such hearing and shall thereafter review, and where appropriate, revise such bill of rights on an annual basis. Such bill of rights shall be

conspicuously posted in all division offices that are open to the public and shall be available for distribution to the public in English, Spanish and any other languages that the commissioner deems appropriate.

i. Not later than ninety days from the effective date of the local law that added this section, the commissioner shall establish a policy or procedure for overseeing and monitoring the delivery of services required pursuant to this section to persons with clinical/symptomatic HIV illness or with AIDS which shall include, but not be limited to, quality assurance measurements. The commissioner shall submit such policy or procedure to the mayor and the council in writing within ten days from the date such policy or procedure is established.

j. The commissioner shall submit written, quarterly reports to the mayor and the council that shall, at a minimum, provide the following information:

1. The number of persons with clinical/symptomatic HIV illness or with AIDS who requested benefits or services set forth in subdivision b of this section or any other benefits or services provided by the division.

2. The processing time for applications for benefits or services, disaggregated by field office, type of benefit and individual versus family case, specified as follows:

(i) for non-emergency applications for food stamps, medicaid and public assistance benefits, including separate determinations of eligibility for medicaid or food stamps:

(1) the number of days from completed application to the provision of the benefit or service; and

(2) in cases of denial, the number of days from the completed application to denial of the application.

(ii) for immediate needs grants and expedited food stamps:

(1) the number of days from the request date to the date of issuance of a grant; and

(2) in cases of denial, the number of days from the request date to the date of denial.

(iii) for all other non-emergency benefits or services provided by or through any division center or office, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances:

(1) (a) the number of days from initial request to completed application; and

(b) the number of days from completed application to the provision of the benefit or service; and

(2) in cases of denial, the number of days from completed application to denial of the application.

(iv) for all other benefits or services provided on an emergency basis, including but not limited to exceptions to policy for enhanced rental assistance and additional allowances:

(1) the number of days from initial request to completed application;

(2) the number of days from completed application to approval or denial of the application; and

(3) the number of days from approval of an application to the provision of the benefit or service.

(v) for applications for non-emergency housing:

(1) the number of days from a request for housing to completed application;

(2) the number of days from completed application to approval or denial of the application;

(3) the number of days from approval of an application to the date on which the client takes occupancy of non-emergency housing; and

(4) with respect to applications that are approved, the number of days from completed application to the date on which the client takes occupancy of non-emergency housing.

3. The number of division staff, by job title, whose duties include providing benefits and services or access to benefits and services pursuant to this section, disaggregated by field office and family versus overall cases; the number of cases at each field office, disaggregated by family versus overall cases; and the ratio of case managers and supervisors to clients at each field office, disaggregated by family versus overall cases.

4. The number of cases closed, disaggregated by the reasons for closure.

5. The number of closed cases that were re-opened, the length of time required to re-open such closed cases, starting from the date on which the case was closed, and the total number of cases closed in error and the length of time required to reopen such closed cases, starting from the date on which the case was closed, disaggregated by field office and reported in the following categories: 0 to 15 days; 16 to 30 days; 31 to 45 days; 46 to 60 days; 61 to 75 days; 76 to 90 days; and more than 91 days.

6. The number of administrative fair hearings requested, the number of fair hearing decisions in favor of applicants and recipients and the length of time for compliance with such fair hearing decisions, disaggregated by decisions where there was compliance within 30 days of the decision date and decisions where there was compliance after 30 days of the decision date;

7. The number of proceedings initiated pursuant to article 78 of the civil practice law and rules challenging fair hearing decisions, and the number of article 78 decisions rendered in favor of applicants or recipients; 8. The number of clients in emergency housing and the average length of stay, disaggregated on a monthly basis;

9. The number of facilities used to provide emergency shelter for clients and the number of units per facility, disaggregated by the type of facility; 10. The number of facilities used to provide emergency shelter placed on non-referral status for each month in the reporting period and the number of facilities placed on non-referral status that remedied the situation that led to non-referral status.

11. The number of facilities used to provide emergency shelter placed on discontinuance of use status and the number of facilities placed on discontinuance of use status that remedied the situation that led to discontinuance of use status.

12. The number of requests for emergency housing assistance, the number of persons referred to the department of homeless services; the number of persons referred to commercial single room occupancy hotels, the average length of stay in commercial single room occupancy hotels, the number of applications for non-emergency housing each month; and the number of persons placed in non-emergency housing each month.

13. The number of inspections of emergency housing conducted by the division.

14. Quarterly reports required by this subdivision shall be delivered no later than 60 days after the last day of the time period covered by the report. The first quarterly report required by this subdivision shall be delivered no later than August 31, 2005.

k. There shall be an advisory board to advise the commissioner on the provision of benefits and services and access to benefits and services to persons with clinical/symptomatic HIV illness or with AIDS as required by this section. This advisory board shall consist of eleven members to be appointed for two-year terms as follows: five members, at least three of whom shall be eligible for benefits and services pursuant to this section, who shall be

appointed by the speaker of the council and six members, including the chairperson of the advisory board, at least three of whom shall be eligible for benefits and services pursuant to this section, who shall be appointed by the mayor. The advisory board shall meet at least quarterly and members shall serve without compensation. Such advisory board may formulate and recommend to the commissioner a policy or procedure for overseeing and monitoring the delivery of services to persons with clinical/symptomatic HIV illness or with AIDS which may include quality assurance measurements. Such advisory board shall submit such recommended policy or procedure to the mayor and the council upon submission to the commissioner.

l. Centralized housing referral and placement system.

(1)* Development138 and maintenance of referral and placement system. Within one year of the effective date of the local law that added this subdivision, the commissioner shall establish and maintain a housing referral and placement system to track referrals to and placements in emergency and non-emergency housing and to track the conditions at emergency facilities at which clients with clinical/symptomatic HIV illness or with AIDS reside. At a minimum, the housing referral and placement system required by this subdivision shall have: (i) a mechanism to track vacancies at non-emergency housing facilities and to match eligible applicants to appropriate vacancies; (ii) a mechanism to track conditions at emergency housing facilities; and (iii) a mechanism to track the outcome of referrals and length of stay at emergency housing facilities and non-emergency housing facilities.

HISTORICAL NOTE

Section added L.L. 49/1997 § 1, eff. July 11, 1997.

Subd. a par 2 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. a par 3 renumbered and amended (former par 2) L.L. 32/2005 § 2,

eff. Apr. 28, 2005. [See Note 1]

Subd. a par 4 renumbered (former par 3) L.L. 32/2005 § 2, eff. Apr. 28,

2005. [See Note 1]

Subd. a par 5 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. a par 6 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. a par 7 renumbered and amended (former par 4) L.L. 32/2005 § 2,

eff. Apr. 28, 2005. [See Note 1]

Subd. a par 8 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. a par 9 renumbered and amended (former par 5) L.L. 32/2005 § 2,

eff. Apr. 28, 2005. [See Note 1]

Subd. a par 10 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. a par 11 added L.L. 32/2005 § 2, eff. Apr. 28, 2005. [See Note 1]

Subd. c amended L.L. 50/2005 § 2, eff. Aug. 17, 2005. [See Note 2]

Subd. j amended L.L. 32/2005 § 3, eff. Apr. 28, 2005. [See Note 1]

Subd. l added L.L. 51/2005 § 2, eff. Aug. 17, 2005. [See Note 3]

NOTE

1. Provisions of L.L. 32/2005:

Section 1. Declaration of legislative findings and intent. The Council hereby finds and declares that people with clinical/symptomatic HIV disease and AIDS who seek assistance from the department of AIDS services and income support or its legal or functional equivalent (the "division"), have particularly acute needs for the timely receipt of benefits and services, intensive case management, and safe, clean housing to keep them healthy. The Council further finds that having accurate information regarding the division's success in providing timely access to benefits and services, intensive case management and safe housing is critical to accomplishing its charter mandated oversight role with respect to the division. The Council hereby aims to ensure the gathering and reporting of information crucial to determining compliance with the legal mandates imposed on the division.

NOTE

2. Provisions of L.L. 50/2005:

Section 1. Declaration of legislative findings and intent. The Council hereby finds and declares that people with clinical/symptomatic HIV disease and AIDS who seek assistance from New York City's Human Resources Administration ("HRA") have particularly acute needs for safe, clean housing to keep them healthy. The Council further finds that homeless clients of the department of AIDS services/HIV and AIDS Services Administration often spend long periods of time in emergency housing while they wait for medically appropriate, non-emergency housing. The goal of this legislation is to facilitate the application and referral process for medically appropriate, non-emergency housing for New Yorkers living with HIV and AIDS.

NOTE

3. Provisions of L.L. 51/2005:

Section 1. Declaration of legislative findings and intent. The Council hereby finds and declares that people with clinical/symptomatic HIV disease and AIDS who seek assistance from New York City's Human Resources Administration ("HRA") have particularly acute needs for safe, clean non-emergency housing to keep them healthy. The Council further finds that the lack of a comprehensive housing referral and tracking system creates greater challenges for providing non-emergency housing of the quality HRA's clients with clinical/symptomatic HIV disease and AIDS require. The Council hereby aims to ensure higher quality housing for all HRA clients with clinical/symptomatic HIV disease and AIDS.

CASE NOTES

¶ 1. Housing that is not habitable due to vermin, filth, lack of furnishings or lack of accessibility is not "suitable" housing within the meaning of the statute. The housing units must have adequate refrigerators; otherwise, medications and nutritional supplements, which are essential to the survival of AIDS patients, would spoil. Bathrooms must be clean, because AIDS patients are easily susceptible to infection. Moreover, since many AIDS patients have limited mobility, it is not appropriate to place them on high floors in buildings which do not have elevators. Winds v. Turner, N.Y.L.J., Sept. 18, 2002, page 19, col. 2 (Sup.Ct. New York Co.).

FOOTNOTES

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[Footnote 138]: * Enacted without a paragraph (2).

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-130 Shelter and related services for victims of domestic violence.

a. The city shall provide emergency shelter and/or related services to victims of domestic violence to the extent required by sections 131-u and 459-a of the social services law. A victim of domestic violence shall include any person over the age of 16, any married person, or any parent accompanied by his or her minor child or children, in situations in which such person, parent or person's child is a victim of an act which would constitute a violation of the Penal Law, including, but not limited to acts constituting disorderly conduct, harassment, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and

(1) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

(2) such act or acts are or are alleged to have been committed by a family or household member.

Notwithstanding any other provision of this section, "Family or household members" shall mean the following individuals:

(i) persons related by blood or marriage;

(ii) persons legally married to one another;

(iii) persons formerly married to one another regardless of whether they still reside in the same household;

(iv) persons who have a child in common regardless of whether such persons are married or have lived together

at any time;

(v) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; or

(vi) unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household.

b. Victims of domestic violence who apply for emergency shelter and/or related services pursuant to section 131-u of the social services law may not be denied emergency shelter or related services solely based on lack of documentary evidence of the incidence of domestic violence, such as a police report or order of protection.

HISTORICAL NOTE

Section added L.L. 43/2002 § 1, eff. Dec. 19, 2002.

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-131 Food[140] Stamp Applications at Emergency Feeding Programs.

a. The commissioner shall arrange for the distribution of applications for the food stamp program to all city-funded emergency feeding programs. For purposes of this section, "emergency feeding program" means a food pantry or soup kitchen.

b. Reports regarding distribution of food stamp applications. Beginning January 1, 2006, and on the first business day of each succeeding calendar quarter thereafter, the commissioner shall submit a report to the speaker of the city council indicating the emergency feeding programs to which it distributed applications in the prior calendar quarter and the number of applications distributed to each emergency feeding program.

HISTORICAL NOTE

Section added L.L. 80/2005 § 1, eff. Nov. 15, 2005.

FOOTNOTES

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[Footnote 140]: * There are 2 sections 21-131.

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Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-131 [Child welfare parent advocate advisory committee**]

a. Definitions.141 For the purposes of this section, the following terms shall have the following meanings:

1. "Commissioner" shall mean the commissioner of the administration for children's services.

2. "Foster care" shall mean the out-of-home placement of children who are in the care, custody or guardianship of the commissioner of the administration for children's services.

3. "Foster care services" shall mean the care of abandoned, destitute, dependent, neglected or delinquent children or persons in need of supervision away from their own homes in institutions, foster homes or temporary shelters, in whole or in part at public expense, under the jurisdiction of a social services official or other authorized agency.

4. "Foster parent" shall mean any person with whom a child in the care, custody or guardianship of the commissioner of the administration for children's services is placed for temporary or long-term care, as defined by section 371 of the social services law.

5. "Organization" shall mean any individual, association, corporation, not-for-profit corporation, partnership, institution, trust, firm or other entity.

6. "Parent" shall mean any biological parent.

7. "Parent advocate" shall mean any parent who has been or has had a child placed in foster care or who has

received preventive services and who works with and provides advice to parents regarding child welfare policies and practices and parental rights and responsibilities within the foster care system.

8. "Preventive services" shall mean supportive and rehabilitative services provided to children and their families for the purpose of:

(i) averting an impairment or disruption of a family which will or could result in the placement of a child in foster care;

(ii) enabling a child who has been placed in foster care to return to his or her family at an earlier time than would otherwise be possible; or

(iii) reducing the likelihood that a child who has been discharged from foster care would return to such care.

b. There shall be a child welfare parent advocate advisory committee. Such committee shall provide recommendations on the administration for children's services policies regarding foster care services and preventive services.

1. The advisory committee shall consist of:

(i) ten parents or parent advocates from organizations providing foster care services pursuant to a contract with the administration for children's services or receiving services directly from the administration for children's services, or from organizations providing preventive services pursuant to a contract with the administration for children's services or receiving services directly from the administration for children's services, six of whom shall be appointed by the commissioner and four of whom shall be appointed by the speaker of the city council;

(ii) four foster parents, three of whom shall be appointed by the commissioner and one of whom shall be appointed by the speaker of the city council; and

(iii) four parents who have adopted children formerly in the care, custody or guardianship of the commissioner, three of whom shall be appointed by the commissioner and one of whom shall be appointed by the speaker of the city council.

2. Each member of the advisory committee will serve for a term of two years to commence on the effective date of the local law that added this section and may be removed from office by the appointing official for cause. Any vacancy occurring other than by expiration of term shall be filled by the official who appointed the member in the same manner as the original appointment. A person so appointed shall serve for the unexpired portion of the term of the member succeeded. The commissioner shall designate one member to serve as chairperson and one member to serve as vice-chairperson.

3. Each member of the advisory committee shall serve without compensation.

4. No person shall be ineligible for membership on the advisory committee because such person holds any other public office, employment or trust, nor shall any person be made ineligible to or forfeit such person's right to any public office, employment or trust by reason of such appointment.

5. The advisory committee shall meet at least four times a year.

6. The advisory committee may request and shall receive from the administration for children's services all documents otherwise available to the public, including, but not limited to, procedures, requests for proposals, contracts, training curricula, year-end reviews and descriptions of program evaluation systems. The advisory committee may not receive information which is required by law to be kept confidential or which is privileged as attorney-client communications, attorney work products or material prepared for litigation.

7. The advisory committee shall submit to the mayor and to the speaker of the city council on an annual basis, no later than October thirtieth of each year, a report. Such report shall include, but not be limited to, recommendations regarding the improvement of services provided by the city and non-government related service delivery systems with respect to foster care services, preventive services and any other aspects of the child welfare system such committee deems relevant. Such reports shall be considered public information.

HISTORICAL NOTE

Section added L.L. 116/2005 § 1, eff. Mar. 29, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 116/2005:

§ 2. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

FOOTNOTES

141

[Footnote 141]: ** Enacted without section heading. There are 2 sections 21-131.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-132

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-132 Internet submission of applications for the food stamp program.

a. Within139 one year of the effective date of the local law that added this section, the commissioner shall develop a procedure that enables applicants for the federal food stamp program to access and submit applications using the internet.

b. To the extent that the requirement set forth in subdivision a of this section is subject to the approval of the state office of temporary and disability assistance or the United States department of agriculture or any other state or federal agency, the commissioner shall request such permission within 90 days of the effective date of the local law that added this section.

HISTORICAL NOTE

Section added L.L. 81/2005 § 1, eff. Sept. 16, 2005.

FOOTNOTES

139

[Footnote 139]: * There are 2 sections 21-132.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-132

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 1 DEPARTMENT OF SOCIAL SERVICES

§ 21-132 Handling of applications for the food stamp program.

a. Submission of applications by facsimile. Within one year of the effective date of the local law that added this section, the commissioner shall develop and maintain a procedure that enables applicants for the federal food stamp program to submit applications by facsimile.

b. Waiver of face-to-face interviews. The commissioner shall maintain a procedure for waiving a face-to-face interview for applicants for food stamps for whom the requirement constitutes a hardship, including but not limited to illness, transportation difficulties, care of a household member, or work or training hours which prevent the applicant from participating in an in-office interview. Within 180 days of the effective date of the local law that added this section, a description of the circumstances under which a face-to-face interview can be waived shall be included in any information developed and circulated by or on behalf of the department that describes the food stamp program.

c. Receipt. Upon written or oral application to the department for food stamps an applicant shall immediately be provided with a receipt, which shall be in the form of a checklist and shall include, at a minimum, the date of the application, a description of the information received, and an indication as to whether any application for such benefits and services is complete or incomplete, and if incomplete, such receipt shall identify any information or documents needed in order for the application to be deemed complete.

d. Ensuring accuracy of public information regarding location and office hours of food stamp offices. The department shall regularly review all information available to the public on the department's website or any other website maintained by or on behalf of the city of New York; any printed materials developed and circulated by or on behalf of the department or the city of New York; and any information provided by 311 or any hotline operated by or on

behalf of the department, that describes the locations and office hours of all food stamp offices in New York city and update such information as necessary to maintain accuracy. At a minimum, the department shall review all such information on a monthly basis.

e. Approvals. To the extent that the requirements set forth in this section are subject to the approval of the state office of temporary and disability assistance or the United States department of agriculture or any other state or federal agency, the commissioner shall request such permission within 90 days of the effective date of the local law that added this section.

HISTORICAL NOTE

Section added L.L. 82/2005 § 1, eff. Nov. 15, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-201

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 2 DEPARTMENT FOR THE AGING*113

§ 21-201 Definitions.

Whenever used in this chapter, the following words shall have the following meanings:

a. "Commissioner" shall mean the commissioner of the department for the aging.

b. "Department" shall mean the department for the aging.

c. "Regularly schedules activities" shall mean all activities which are funded in whole or in part by the city of New York.

d. "Senior center" shall mean facilities operated by the city of New York or operated by an entity that has contracted with the department to provide services to senior citizens on a regular basis including, but not limited to meals, recreation and counseling.

e. "Elder abuse" shall mean any knowing, intentional, or negligent act by a caregiver or any other person holding a trusting relationship with a vulnerable older adult, which causes harm or a serious risk of harm to that older adult including physical, emotional, sexual, or financial harm, or neglect, abandonment or confinement.

HISTORICAL NOTE

Section added L.L. 9/1992 § 3, eff. Apr. 5, 1992.

Subd. e added L.L. 43/2008 § 1, eff. Jan. 20, 2009.

FOOTNOTES

113

[Footnote 113]: * Note provisions of L.L. 9/1992 § 1.

Section 1. Legislative findings and intent. The City Council finds that many of the city's elderly regard senior citizen centers as a second home and their fellow center members as family. The City Council also finds that senior citizens should be treated with dignity and respect in deference to their many contributions to society. Accordingly, the City Council finds that the city's elderly should be guaranteed certain rights at all senior citizen centers which are operated by the city or operated by an entity that has contracted with the department for the aging.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-202

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 2 DEPARTMENT FOR THE AGING*113

§ 21-202 Bill of rights required.

a. The commissioner shall require that every senior center adopt a statement of the rights of all senior citizens who participate in activities and take advantage of services provided by such senior center and treat all senior citizens in accordance with the provisions of such statement.

b. Contents of bill of rights. Such statement of rights shall include the following:

1. Every senior citizen who otherwise qualifies for participation shall have the right to participate as a member of a senior center.

2. Every senior citizen shall have the right to participate in all regularly scheduled activities and take advantage of services provided by the center to the extent that funding and space limitations permit.

3. Every senior center shall have a senior advisory council which will be comprised of senior citizens from the senior center membership. Such advisory council shall advise the senior center's management of the needs of the senior citizens.

4. Every senior citizen attending a senior center's regularly scheduled meal period shall be offered a balanced and nutritious meal to the extent that funding and space limitations permit. Those senior citizens that do not receive a balanced and nutritious meal shall be offered nourishment during a senior center's regularly scheduled meal period to the extent that funding permits.

5. Every senior citizen attending a senior center shall have the opportunity to make a financial contribution which shall be voluntary and anonymous and shall be used by the senior center to enhance and increase services to senior citizens.

6. Every senior citizen shall be treated courteously, fairly and respectfully at a senior center.

7. Every senior citizen shall have the right not to be discriminated against based upon his or her actual or perceived race, creed, color, national origin, age, gender, disability, marital status, sexual orientation, alienage or citizenship status, in violation of the human rights law of the city of New York.

8. Every senior citizen shall have the right to be informed of those senior centers that are handicapped accessible.

9. Every senior citizen shall have the right to present grievances on behalf of himself or herself to the senior center's staff, board of directors or executive committee, or elected or other government officials, without fear of reprisal from officers or employees of the senior center.

c. Posting required. Every senior center shall post conspicuously:

(i) in or near the entrance to such center a sign that states the rights of senior citizens as provided in this section;

(ii) all regularly scheduled activities as defined in this section; and

(iii) the department's phone number.

d. Nothing in this section shall be construed to limit the department's authority to promulgate rules regarding matters within its jurisdiction pursuant to applicable law.

HISTORICAL NOTE

Section added L.L. 9/1992 § 3, eff. Apr. 5, 1992.

FOOTNOTES

113

[Footnote 113]: * Note provisions of L.L. 9/1992 § 1.

Section 1. Legislative findings and intent. The City Council finds that many of the city's elderly regard senior citizen centers as a second home and their fellow center members as family. The City Council also finds that senior citizens should be treated with dignity and respect in deference to their many contributions to society. Accordingly, the City Council finds that the city's elderly should be guaranteed certain rights at all senior citizen centers which are operated by the city or operated by an entity that has contracted with the department for the aging.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-203

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 2 DEPARTMENT FOR THE AGING*113

§ 21-203 Elder abuse training.

a. The commissioner shall develop a program to train senior service providers in the detection and reporting of elder abuse. Such program shall also include training on the counseling of elder abuse victims.

b. The commissioner shall require that employees of senior centers and employees of entities that contract with the department to provide services to senior citizens, be trained in elder abuse detection, reporting and counseling, and receive supplemental refresher training regarding the same at least once every 3 years, if such employee has or is expected to have significant and direct person to person contact with senior citizens.

c. The commissioner shall require senior centers to hold at least two educational sessions per year during which guests and members of the senior center will receive counseling regarding elder abuse prevention and awareness and be instructed on how to detect and report instances of elder abuse.

d. The commissioner shall require that every senior center post signage in a prominent common area section within the center that directs those who need information regarding elder abuse detection, reporting, counseling and services to call either the 311 citizen service system or the department's Elderly Crime Victims Resource Center.

HISTORICAL NOTE

Section added L.L. 43/2008 § 2, eff. Jan. 20, 2009.

FOOTNOTES

113

[Footnote 113]: * Note provisions of L.L. 9/1992 § 1.

Section 1. Legislative findings and intent. The City Council finds that many of the city's elderly regard senior citizen centers as a second home and their fellow center members as family. The City Council also finds that senior citizens should be treated with dignity and respect in deference to their many contributions to society. Accordingly, the City Council finds that the city's elderly should be guaranteed certain rights at all senior citizen centers which are operated by the city or operated by an entity that has contracted with the department for the aging.

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Administrative Code of the City of New York

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NYC Administrative Code 21-301

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-301 Definitions.

Whenever used in this chapter, the following terms shall be defined as follows:

a. "Commissioner" shall mean the commissioner of homeless services.

b. "Department" shall mean the department of homeless services.

c. "Eligible homeless person" shall mean a person eligible for transitional housing or services from the department pursuant to federal, state and local laws and such rules and regulations as may be promulgated pursuant thereto.

d. "Temporary shelter placement" shall mean a shelter placement for a family with children which complies with all applicable requirements of the administrative code of the city of New York.

HISTORICAL NOTE

Section added L.L. 19/1999 § 5, eff. May 18, 1999.

DERIVATION Section derived from § 21-129 repealed L.L. 19/1999 § 4, eff. May 18, 1999. Section renumbered L.L. 57/1998 § 3, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-301) Subds. a, b amended L.L. 57/1998 § 3, eff. Dec. 17, 1998 and deemed in force June 30, 1998. Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to Sept. 6, 1995. Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept. 6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-302

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-302 Housing-readiness training and aftercare programs.

a. The commissioner shall establish, maintain and operate housing-readiness training for all eligible homeless persons determined to be in need of such training. This training shall include such subjects as the commissioner shall determine are necessary to enable such eligible homeless persons to acquire the skills necessary for adjustment to and remaining in permanent housing. On or before December 31, 1995, the commissioner shall promulgate a housing-readiness training plan to be used in such training as shall be established, maintained and operated pursuant to this section. Beginning on December 31, 1995, such housing-readiness training shall be available no less frequently than on a quarterly basis.

b. The commissioner shall establish, maintain and operate aftercare programs to assist eligible homeless persons who have been placed in permanent housing to adjust to and remain in such housing. The commissioner shall determine the period for which such eligible homeless persons may remain in aftercare programs. For the purposes of this section, aftercare shall be defined to include, but not be limited to, follow-up case management services and assisting formerly eligible homeless persons who have been placed in permanent housing to access needed services in their communities.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly

§ 21-130)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed

in force June 30, 1998. (Formerly § 21-302)

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to

Sept. 6, 1995.

Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept.

6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-303

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-303 Training and supervision of housing specialists.

Housing specialists shall be available to serve in each transitional housing facility used, owned, operated, managed or contracted for, by or on behalf of the department. Where housing specialists are placed in transitional housing facilities and are employed by not-for-profit or for-profit operators of such facilities, the commissioner shall establish a training program for such housing specialists which shall include, but not be limited to, establishing expertise in the various housing programs to which eligible homeless persons may be referred and proper case management techniques. The commissioner shall develop definite program goals and timetables by which he or she shall assess the performance of housing specialists in matching as expeditiously as possible eligible homeless persons with available housing resources and, on or before December 31, 1995, shall report to the speaker of the city council in writing on such goals and timetables by which he or she shall assess the performance of housing specialists.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-131)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-303)

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to

Sept. 6, 1995.

Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept.

6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-304

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-304 Computerization.

In order to ensure that the delivery of services provided by the department to eligible homeless persons is efficiently coordinated with the services provided by the department of social services to such persons, the commissioner shall, to the maximum extent possible and in conformance with federal and state confidentially laws, develop computer systems which can easily access and share data with department of social services computer systems regarding such persons. The commissioner may appoint an interagency computer liaison to facilitate such interagency communication and information sharing.

HISTORICAL NOTE

Section added L.L. 19/1999 § 7, eff. May 18, 1999.

DERIVATION Section derived from § 21-304 repealed L.L. 57/1998 § 4, eff. June 30, 1998. Section amended L.L. 75/1995 § 2, eff. Sept. 6, 1995 expiring July 1, 1998. Section added L.L. 51/1993 § 4, eff. June 30, 1993.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-305

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-305 Permanent housing resource clearinghouse.

The commissioner shall establish, in conjunction with the department of housing preservation and development and the New York city housing authority, a permanent housing resource clearinghouse to coordinate and track such permanent housing resources as may be approved as available to eligible homeless persons.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-132)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-305)

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to Sept. 6, 1995, expires as per footnote to Chapter 3.

Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept. 6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-306

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§21-306 Homeless services advisory board.

There shall be an advisory board to advise the commissioner on the provision of transitional housing and services for eligible homeless persons. This advisory board shall consist of eleven members to be appointed for two-year terms as follows: five members appointed by the speaker of the city council and six, including the chairperson of the advisory board, by the mayor. The members of the advisory board shall include one or more members who are or were, within the immediate past twenty-four months, homeless. The members of the advisory board shall serve without compensation.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-133)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-306)

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to Sept. 6, 1995, expires as per footnote to Chapter 3.

Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept.

6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-307

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-307 Interagency coordinating council.

a. There shall be an interagency coordinating council established by the mayor which shall consist of representatives of each city agency providing transitional housing or services to eligible homeless persons and other homeless individuals and families. Such interagency coordinating council shall include, but shall not be limited to, representatives of the department of homeless services, the department of social services, the department of housing preservation and development and such other agencies as the mayor shall designate. The mayor shall designate a deputy mayor to serve as chairperson of the interagency coordinating council. The commissioner of the department of homeless services shall provide appropriate personnel to assist the interagency coordinating council in the performance of its functions.

b. The interagency coordinating council shall:

1. Not later than October 1, 1995 and each year thereafter, prepare, in consultation with the office of management and budget, an annual breakdown of each member agency's expenditures for housing and services to the homeless in the adopted budget;

2. review the organization and operations of member agencies with respect to contracted service providers to the homeless, including service delivery, management and evaluation of performance;

3. recommend means by which the duplication and fragmen- tation of the provision of housing for, and delivery of services to, the homeless may be reduced and the efficiency, effectiveness and economy of service delivery may be enhanced;

4. consider proposals for the improvement of transitional and permanent housing programs and service delivery to the homeless; and

5. recommend to the mayor and the city council joint agency projects or programs which could facilitate more efficient use of existing resources.

c. The interagency coordinating council shall meet at least quarterly and shall hold at least one public hearing annually, at which public testimony shall be taken. A report on each such public hearing shall be submitted in writing to the speaker of the city council within ten days of the date on which such public hearing shall have been held. Where the interagency coordinating council fails to hold such meetings or public hearings as required pursuant to this subdivision, a report shall be submitted in writing to the speaker of the city council including an explanation of the failure to hold such meetings or public hearings.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-134)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-307)

Subd. a amended L.L. 52/2003 § 7, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. a amended L.L. 57/1998 § 7, eff. Dec. 17, 1998 and deemed in force June 30, 1998.

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995, retroactive to Sept. 6, 1995.

Section added L.L. 51/1993 § 4, eff. June 30, 1993 expiring Sept. 6, 1995 as per L.L. 61/1995 § 1.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-308

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-308 Five-year plan to relieve homelessness.

1. The commissioner shall submit to the speaker of the city council a Five-Year Plan to Relieve Homelessness, including but not limited to the following:

a. Projected numbers of homeless individuals and families.

b. Projected expense and capital budgets for the department, including, but not limited to expenditures for homeless individual and homeless family programs, facilities and services.

c. Projected number of facilities to be constructed or rehabilitated to accommodate homeless individuals and families.

d. Projected number of permanent housing units to be constructed or rehabilitated to accommodate homeless individuals and families.

2. a. The Five-Year Plan shall be reviewed and updated by the commissioner each year, and the updated version thereof shall be submitted to the speaker of the city council not later than October first of each year.

b. In the fifth year covered by each such Five-Year Plan, the commissioner shall submit a Five-Year Plan to Relieve Homelessness for the next succeeding five-year period not later than six months prior to the last day of such fifth year to the speaker of the city council.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-135)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-308)

Section amended L.L. 75/1995 § 2, eff. Sept. 22, 1995.

Section renumbered and amended L.L. 51/1993 § 5 retroactive to June 8, 1993 (formerly §21-121).

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-309

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-309 Referrals to non-compliant hotel units prohibited.

a. Not later than September 30, 1996, the commissioner shall eliminate for the purpose of providing transitional housing for homeless families with children the department's use of:

1. any privately owned hotel with a total of more than 100 units which is operated by the owner or another person for profit; and

2. any unit in a privately owned hotel with a total of 100 units or less which is operated by the owner or another person for profit in which a bathroom, cooking facilities including but not limited to secured burners and other equipment as may be necessary to prepare meals for a family, a kitchen-style sink, a refrigerator, and an adequate sleeping area are not provided in each unit and where stable living accommodations, on-site social services, and accommodations which otherwise comply with federal, state and local laws are not provided to the homeless families with children housed in each such unit. For purposes of this section, "on-site social services" shall mean, at a minimum: (A) services for information and referral to appropriate health care providers; (B) within two days of arrival, the family is offered a preliminary needs determination, including referrals for benefits or services which if immediately provided to the family would facilitate their return to permanent housing, and an evaluation of the educational and other needs of the family members; (C) the family is offered an assessment of its needs and an analysis of how these needs will be met through existing public assistance and care programs, including child welfare programs, and the steps to be taken to obtain the service needs of the family; (D) the family has access to its services plan and case files; (E) the family is offered assistance in preparing for permanent housing, which shall include, at a minimum, where necessary and appropriate: counseling services, assistance in obtaining permanent housing, assistance in securing supportive social and mental health services including but not limited to psychiatric, drug and alcohol services and assistance in securing

employment assessment, job training and job placement services; and (F) the family is offered information about and referrals to: local community agencies and programs the services of which the family may reasonably require in order to facilitate their return to permanent housing and for which the family is eligible; recreational services; and child care services.

b. Notwithstanding any other provision of this section, the commissioner, or the commissioner of any successor agency, shall be authorized to take such action as may be necessary to comply with court orders.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly

§ 21-136)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed

in force June 30, 1998. (Formerly § 21-309)

Section added L.L. 75/1995 § 2, eff. Sept. 22, 1995.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-310

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-310 Compilation of data on homeless veterans.

1. In addition to any other data which it may deem relevant, the department shall compile data on each person using the homeless shelters of New York city which shall include information regarding:

a. whether the person is a veteran;

b. whether that person's veteran status has been verified;

c. the period of time the person served in the armed forces;

d. the type of discharge;

e. whether the discharge was a service connected disability; and

f. whether the veteran is receiving a veterans' pension.

2. The term "veteran" means a person who has served in the active military of the United States and who has been released from such service otherwise than by dishonorable discharge.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly

§ 21-137)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed

in force June 30, 1998. (Formerly § 21-310)

Section renumbered and amended L.L. 75/1995 § 2. (Formerly § 21-309)

Section renumbered L.L. 51/1993 § 6, eff. June 30, 1993. (Formerly

§21-122)

Section added L.L. 54/1987 § 1

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-311

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-311 Quarterly reporting requirements.

In addition to such other reports as the commissioner is required to submit to the speaker of the city council pursuant to this chapter, beginning on October 1, 1995 and on the first day of each succeeding calendar quarter thereafter, the commissioner shall submit to the speaker of the city council a report in writing aggregating the following statistics both on a quarterly and fiscal year annualized basis:

a. placements in permanent housing by program, including but not limited to placements provided by and through the department of housing preservation and development and the New York city housing authority;

b. the length of time individuals and families receive transitional housing from or through the department without having been placed in permanent housing and the type of such transitional housing utilized;

c. the number of individuals and families who are rehoused in transitional housing within two years of having been placed in permanent housing and the length of time between such permanent housing placement and such rehousing in transitional housing; and

d. with reference to any telephone hotline operated by or for the department for the purpose of facilitating contract between families in need of transitional housing and the department, how the public is informed of the availability of the telephone hotline, the number of calls received disaggregated by borough of origin, the average number of department staff receiving calls on a daily basis, the number of persons for whom assistance was provided and the actions taken on each call.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-138)

Section renumbered L.L. 57/1998 § 5, eff. Dec. 17, 1998 and deemed in force June 30, 1998. (Formerly § 21-311)

Section added L.L. 75/1995 § 2, eff. Sept. 22, 1995.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-312

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Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-312 Shelters for adults. a. Definitions.

1. "Census" shall mean the actual number of persons receiving shelter at a shelter for adults.

2. "Certified capacity" shall mean the maximum number of persons who may receive shelter at a shelter for adults at any one time as authorized by the New York state office of temporary and disability assistance.

b. No shelter for adults shall be operated with a census of more than two hundred persons. Notwithstanding such prohibition, any shelter with a census of greater than two hundred persons on June first, nineteen hundred ninety-eight may continue to operate in excess of the abovementioned two hundred person limitation, and such shelter may continue to shelter the highest number of persons permitted, authorized, approved or otherwise allowed between June first, nineteen hundred ninety-eight and December seventeenth, nineteen hundred ninety-eight, by the state of New York office of temporary and disability assistance. Nothing in this section shall be construed to require any shelter with a census of greater than two hundred persons on the effective date of this local law to reduce its census below two hundred persons.

c. Notwithstanding the provisions of subdivison b of this section, homeless single adult shelters may provide short-term emergency shelter to persons in excess of the certified capacity only when the conditions set forth in subdivision h of section 491.4 of title 18 of the official compilation of the codes, rules and regulations of the state of New York are met, and in no event for more than thirty days in any calendar year. Whenever a shelter for adults operates above its certified capacity, the speaker of the council shall be notified in writing within three business days.

d. A minimum of seven supervisory staff members shall be required to be present whenever a shelter for adults

operates with a census of two hundred and one persons or more, and one additional supervisory staff member shall be required for every forty persons in excess of two hundred and one.

e. The commissioner shall submit to the speaker of the council quarterly reports summarizing the health, sanitation, safety and fire protection-related deficiencies identified in any inspection of a shelter for adults conducted by any state agency, including but not limited to the office of temporary and disability assistance, the office of children and family services, and the New York state department of health; and any city agency including, but not limited to, the New York city fire department, the New York city department of health and mental hygiene, and the New York city department of buildings; any other government agency; and any organization appointed by any court. The first such report shall be due thirty business days following the calendar quarter ending September thirtieth, nineteen hundred and ninety-eight and all subsequent reports shall be due thirty business days following the last day of each succeeding calendar quarter. Such quarterly reports shall include, but not be limited to, the following:

1. a list of all deficiencies identified by any state, city or other inspecting government agencies or organizations appointed by any court during the quarter which have not yet been brought into compliance with applicable statutes, laws, rules and regulations and the date on which deficiencies previously reported to the speaker of the council were brought into compliance;

2. a list of all deficiencies identified by the fire department in three or more consecutive inspections which have not yet been brought into compliance with applicable statutes, laws, rules and regulations;

3. a copy of all court orders regarding health, sanitation, safety and fire protection-related deficiencies issued during the quarter; and

4. a copy of all corrective action plans, and amendments thereto, regarding health, sanitation, safety and fire protection-related deficiencies filled with any court during the quarter.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly

§ 21-139)

Section added L.L. 57/1998 § 6, eff. Dec. 17, 1998 and deemed in force

June 30, 1998.

Subd. b amended L.L. 6/1999 § 1, eff. Dec. 17, 1998.

Subd. e open par amended L.L. 22/2002 § 47, eff. July 29, 2002 and

deemed in effect as of July 1, 2002.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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***** Current through December 2009 ****

NYC Administrative Code 21-313

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-313 The emergency assistance unit.

The department shall maintain a facility open for intake twenty-four hours a day, seven days a week to accept and process applications for shelter from families with children. Any family with children seeking shelter who is still in the process of applying as of ten o'clock in the evening on the day such family sought shelter shall be provided temporary shelter placement for that night. The following morning the family shall return to the intake facility to complete the application process. The department shall arrange transportation for the families to and from the temporary shelter placement.

HISTORICAL NOTE

Section amended L.L. 19/1999 § 8, eff. May 18, 1999.

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-140)

Section added L.L. 57/1998 § 6, eff. Dec. 17, 1998 and deemed in force June 30, 1998.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-314

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Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-314 Case management services.

The commissioner shall provide case management services to all persons assigned to stay at the department's facilities or the facilities of organizations contracting with the department who are either waiting for the department to determine their eligibility for shelter or are receiving such shelter. Such case management services shall include, but not be limited to, assistance obtaining (a) medical treatment, (b) federal, state and local government documents including, but not limited to, birth certificates, marriage licenses, and housing records, and (c) food, medicine and other necessary supplies; and shall address issues such as domestic violence, child abuse and mental illness, when needed.

HISTORICAL NOTE

Section renumbered L.L. 19/1999 § 6, eff. May 18, 1999. (Formerly § 21-141)

Section added L.L. 57/1998 § 6, eff. Dec. 17, 1998 and deemed in force June 30, 1998.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-314.1

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-314.1 Signage and other materials.

a. The commissioner shall, in consultation with not-for-profit organizations dedicated to the advocacy of child welfare, establish, maintain, and update signage and any other materials that are deemed necessary related to the reporting of child abuse and maltreatment which shall be conspicuously placed in all Tier II shelters and any other facilities that shelter homeless families and which shall include but not be limited to:

1. A textual representation of the type of abusive or neglectful behavior that should be reported, which encourages witnesses of such behavior to report any suspected incidents of child abuse or maltreatment;

2. The name and contact information of the appropriate person or agency to whom suspected incidents of child abuse or maltreatment are to be reported; and

3. An explicit indication of which persons are mandated to report suspected incidents of child abuse or maltreatment pursuant to section 413 of the social services law.

b. The commissioner shall, in consultation with not-for-profit organizations dedicated to the study or dissemination of information about proper infant sleep position and arrangement, establish, maintain, and update signage and any other materials that are deemed necessary related to proper infant sleep position and arrangement which shall include, but not be limited to, a textual and pictorial representation of proper infant sleep position and arrangement. Such signage shall be displayed conspicuously, at a minimum, in every common area of a Tier II shelter and any other facility that shelters homeless families.

c. The commissioner shall provide for the translation of the signage required in subdivisions a and b of this section and any other materials deemed necessary pursuant to this section into every covered language as defined pursuant to section 8-1004 of this code.

d. In addition to the signage and materials provided for in subdivisions a and b of this section, the commissioner shall establish, maintain, and provide training for appropriate shelter employees in the instruction of parents with regard to proper infant sleeping position and arrangement.

HISTORICAL NOTE

Section added L.L. 26/2005 § 1, eff. June 26, 2005. [See Note 1]

NOTE

1. Provisions of L.L. 26/2005:

§ 2. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

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NYC Administrative Code 21-315

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Title 21 Social Services

CHAPTER 3 DEPARTMENT OF HOMELESS SERVICES*114

§ 21-315 Adult shelters operating in excess of two hundred persons.

a. For the purposes of this section, a shelter for adults that operates with a permitted census in excess of two hundred persons pursuant to subdivision b of section 21-312 of this code shall be termed "a grandfathered shelter." In the event that any grandfathered shelter is closed, it may be replaced pursuant to the following provisions:

1. The Kingsboro Shelter Building 6 operating with a census of two hundred twenty-one persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with a shelter with a maximum census of two hundred twenty-one persons.

2. The Brooklyn Women's Shelter operating with a census of two hundred twenty-nine persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with a shelter with a maximum census of two hundred twenty-nine persons.

3. The Atlantic Shelter operating with a census of three hundred fifty persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with a shelter with a maximum census of three hundred fifty persons.

4. The Borden Shelter operating with a census of four hundred ten persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with a shelter with a maximum census of three hundred fifty persons.

5. The Bellevue Shelter operating with a census of eight hundred fifty persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with two shelters each with a maximum census of four hundred persons.

6. The Camp LaGuardia Shelter operating with a census of one thousand seventeen persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with two shelters each with a maximum census of four hundred persons.

7. The Charles H. Gay Shelter operating with a census of one thousand thirty-seven persons permitted pursuant to subdivision b of section 21-312 of this code may be replaced with two shelters each with a maximum census of four hundred persons.

b. Each new shelter which replaces a shelter listed in subdivision a of this section shall comply with applicable statutes, laws, rules and regulations, including, but not limited to, section 197-c of the New York city charter.

HISTORICAL NOTE

Section added L.L. 19/1999 § 9, eff. May 18, 1999.

FOOTNOTES

114

[Footnote 114]: * Chapter 3 added L.L. 19/1999 § 5, eff. May 18, 1999. Derived from former Chapter 3 designated and amended L.L. 75/1995 § 2, formerly Title 21-A added L.L. 51/1993. L.L. 61/1995 amended L.L. 51/1993 § 14(a) extending the sunset provisions. L.L. 75/1995 § 4 extended the sunset provisions until July 1, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-401

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 4 DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

§ 21-401 Definitions.

Whenever used in this chapter the following words shall have the following meanings:

a. "Commissioner" shall mean the commissioner of the department of youth and community development.

b. "Department" shall mean the department of youth and community development.

HISTORICAL NOTE

Section added L.L. 81/1996 § 2, eff. Oct. 26, 1996.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-402

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 4 DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT

§ 21-402 Reporting requirements to the city council.

a. The department shall submit to the city council two reports annually concerning the department's youth services programs, reported separately for community service block grants and other federal, state and city funding sources, respectively, providing indicators on the department's performance goals, actual performance and delivery of youth services within community districts and boroughs, to assist the city council in its oversight of the department's administration of funds and coordination of youth programs. The department shall present actual data for such indicators for the preceding fiscal year and for the current fiscal year, and shall project data for the following fiscal year. Information in the reports shall be presented in accordance with the following categories of indicators: financial indicators; department personnel indicators; performance goals and actual performance with respect to contract categories; and performance goals and actual performance with respect to individual programs. Provided, however, that such reports issued during the first calendar year following the effective date of this provision shall not be required to identify such information separately for each community district for those contracts previously awarded by the department for youth services.

A. Financial indicators. The department shall submit to the city council the following information on contracted services:

1. the number and dollar value of contracts with providers of youth services by community district and borough;

2. the number and dollar value of contracts with providers of youth services for contracts terminated prior to the expiration of the contract and for contracts withdrawn prior to the starting date of such contract by community district and borough; and

3. for contracts with providers of youth services having a dollar value of more than twenty-five thousand dollars for which programmatic and/or fiscal reviews were conducted, the number and dollar value of such contract by community district and borough.

B. Personnel indicators. The department shall submit to the city council the following information on department personnel:

1. the number of employees funded by city, state, community service block grants and other federal funds, respectively, and for each funding source the number of employees who are in each compensation category, such as, full-time, part-time, salaried, hourly or other, and the criteria utilized by the department to establish each category;

2. the number of personnel in administrative positions and the proportion of time spent on administrative functions.

C. Contract categories. The department shall assign to each contract a category from one of the following:

1. BEACON programs;

2. youth development programs;

3. services for runaway and homeless youth; and

4. any additional category deemed necessary by the commis- sioner.

D. Performance goals and actual performance reporting requirements with respect to contract categories. The department shall submit to the city council the following indicators on the performance goals and actual performance of services for each of the contract categories established pursuant to paragraph C of this subdivision: 1. the number and dollar value of contracts with providers of youth services; and

2. the allocation of funds by community services block grants and other federal, city, state and private funding sources, respec- tively.

E. Performance goals and actual performance reporting requirements with respect to individual programs. For every program it coordinates the department shall submit to the city council the following indicators:

1. the program sites for each contract with a provider of youth services by community district and borough;

2. the number of youth served pursuant to each such contract;

3. any outcomes required under the terms of each such contract and the final evaluation with respect to such outcomes; and

4. any other indicator required under the terms of each such contract deemed necessary by the commissioner to measure a program's performance.

F. One of the two annual reports containing the information described in paragraph A through E of this subdivision shall be submitted to the city council concurrent with the issuance of the mayor's management report, and the other annual report containing such information shall be submitted concurrent with the issuance of the preliminary mayor's management report. The period of reporting for the report issued concurrent with the issuance of the mayor's management report shall be the most recent fiscal year ended, and the period of reporting for the report issued concurrent with the issuance of the preliminary mayor's management report shall be the first four months of the fiscal year in which such report is issued.

b. The commissioner shall submit to the city council copies of the following reports, and any revisions, updates or modifications to such reports, at the same time that each is submitted to the appropriate New York state agency or officer, or any successor thereto, elected official or other governmental body pursuant to any applicable statute, law, regulation or rule:

i. the community services block grant management plan required to be submitted to the department of state;

ii. the community services block grant program report required to be submitted to the governor and state legislature; and

iii. the comprehensive planning report required to be submitted to the New York state division for youth within the executive department.

HISTORICAL NOTE

Section added L.L. 81/1996 § 2, eff. Oct. 26, 1996. [See Note]

NOTE

Provisions of L.L. 81/1996 §§ 3-7:

§3. Any agency or officer to whom are assigned by this local law any powers and duties shall have the power to continue any business, proceeding or other matter commenced by the agency or officer by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject matter of such powers and duties shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such powers and duties are assigned by this local law. Any rule in force upon the effective date of this local law and promulgated by an agency or officer whose power to promulgate such rule is assigned to another agency or officer by this local law, including any rule or regulation previously adopted pursuant to provisions of federal or state law relating to the community services block grant program, shall continue in force as the rule of the agency or officer to whom such power is assigned, unless and until such rule is superseded, amended or repealed.

§4. No action or proceeding, civil or criminal, pending at the time when this local law shall take effect, brought by or against the city or any agency or officer, shall be affected or abated by the adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may by this local law be assigned or transferred to another agency or officer, but in the event the same may be prosecuted or defended by the agency to which such functions, powers and duties have been assigned by this local law.

§5. No existing right or remedy of any character accruing to the city shall be lost, impaired or affected by reason of adoption of this local law. Any lease, license, permit or contract in force upon the effective date of this local law, and entered into or issued by an agency or officer whose power to enter into such type of lease, license, permit or contract is assigned by this local law to another agency or officer shall continue in force according to its terms and applicable law.

§6. All records, property and equipment relating to a function, power or duty that is transferred pursuant to this local law shall be transferred and delivered to the agency to which such function, power or duty is transferred.

§7. Whenever, pursuant to this local law, functions, powers or duties are transferred to any agency which have been heretofore exercised by any other agency, officers and employees in the classified city civil service who are engaged in the performance of such powers or duties may be transferred to the agency to which such powers or duties have been transferred, without further examination or qualification, and shall retain their respective civil service classifications and civil service status.

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***** Current through December 2009 ****

NYC Administrative Code 21-501

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 5 WORK EXPERIENCE PROGRAM GRIEVANCE PROCEDURE*115

§ 21-501 Definitions.**

As used116 in this chapter:

a. "Participant" means an applicant for or recipient of family assistance or safety net assistance who volunteers for or who has been required to participate in the work experience program.

b. "Sponsoring agency" means a public agency or a private non-profit or for-profit organization providing an employment related activity(ies) or service(s) to a social services district or the department of social services through contract or agreement.

c. "Terms and conditions of work" shall encompass hours of work, transportation, training, health, safety, alleged failure to comply with program or work activities requirements, and any and all other terms and conditions of work for participants.

d. "Grievance" means:

i. a dispute between a sponsoring agency and one or more WEP participants concerning any terms and conditions of work; or

ii. a claimed violation, misinterpretation, or misapplication of the rules or regulations of a sponsoring agency affecting the terms and conditions of work.

e. "Work Experience Program" or "WEP" shall mean the program established by New York City pursuant to and

governed by Title 9-B of the New York State social services law section 336-c and implementing regulations, under which individuals receiving family assistance or safety net assistance who are assigned to the work experience program are required to work for a specified number of hours per week in a government or private not-for-profit or for-profit agency in order to maintain their eligibility for continued public assistance.

f. "Step 1 supervisor" means the participants immediate supervisor, unless the participant's immediate supervisor is represented for purposes of collective bargaining, in which case the sponsoring agency shall designate a supervisor who is not represented for purposes of collective bargaining to hear and resolve Step 1 grievances.

HISTORICAL NOTE

Section added L.L. 13/2000 § 2, eff. Mar. 29, 2000

CASE NOTES

¶ 1. Local Law 14, which required creation of jobs for public assistance recipients, is invalid as preempted by the state Social Services Law §300 et. seq. Killett-Williams v. Bloomberg, N.Y.L.J., May 15, 2003, at 21, col. 6 (Sup.Ct. New York Co.).

FOOTNOTES

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[Footnote 115]: * There are two Chapters 5. This Chapter 5 added L.L. 13/2000 eff. Mar. 29, 2000.

Note provisions of L.L. 13/2000: Section 1. Declaration of Legislative Findings and Intent. The Council finds that certain recipients of public subsidies under the Family Assistance and Safety Net Assistance programs assigned by the city of New York to its Work Experience Program ("WEP") are required to work a specified number of hours each week in order to maintain their eligibility for continued public assistance. The Council further finds that WEP participants have not consistently been provided with appropriate terms and conditions of work. For example, participants have not consistently been provided with proper equipment and appropriate gear, such as, but not limited to: gloves, safety goggles, and proper clothing to protect them from the elements. In addition, participants have not consistently been given the opportunity to informally resolve disputes with the sponsoring agency prior to the reporting of alleged failure or refusal to comply with program requirements to the local social services district. The Council therefore believes that a grievance procedure must be codified to ensure that WEP participants are permitted to address grievances that may arise out of their work assignments and to provide the opportunity to have these grievances resolved within the sponsoring agency in an expeditious and just manner.

The Council finds that the conciliation provision of New York State Social Services Law and its implementing regulations do not address efforts by participants and sponsoring agencies to resolve disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the State Social Services Law expresses no need for state-wide uniformity in the administration of local Public Assistance Employment Programs. Rather, by omitting direct regulation of local sponsoring agencies, the State Legislature recognized the strong local interest in designing alternatives not specifically provided by state law, in order to meet the needs of the local community. The purpose of this local law is therefore to meet the legitimate local interest of the city of New York in providing a mechanism for its residents who are participants in WEP to informally resolve disputes that may arise with local sponsoring agencies, prior to the involvement of the local social services district.

The Council recognizes that, pursuant to New York State Social Services Law §341, the New York City Human Resources Administration ("HRA") has established a conciliation procedure for individuals who are alleged to have violated work activities requirements and a procedure to resolve other disputes related to participation in work activities. However, the Council finds that the state-mandated procedure for individuals who are alleged to have violated work activities requirements does not provide a means for participants and sponsoring agencies to resolve such disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the HRA procedure to resolve disputes related to participation in work activities, to the extent it provides for sponsoring agency participation, is not enforceable by participants, and was not established pursuant to any powers or duties assigned or delegated to the HRA by the State of New York. Thus, the grievance procedure established by this local law neither overlaps with nor directly affects the procedures established by HRA pursuant to New York State law and regulations.

For all the foregoing reasons, the Council finds that the grievance procedure established by this local law is well within the powers of the Council under New York State Municipal Home Rule Law and the Charter of the City of New York.
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[Footnote 116]: ** There are two sections 21-501.

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NYC Administrative Code 21-502

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 5 WORK EXPERIENCE PROGRAM GRIEVANCE PROCEDURE*115

§ 21-502 Applicability.*

This117 chapter shall apply to all sponsoring agencies and WEP participants.

HISTORICAL NOTE

Section added L.L. 13/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

115

[Footnote 115]: * There are two Chapters 5. This Chapter 5 added L.L. 13/2000 eff. Mar. 29, 2000.

Note provisions of L.L. 13/2000: Section 1. Declaration of Legislative Findings and Intent. The Council finds that certain recipients of public subsidies under the Family Assistance and Safety Net Assistance programs assigned by the city of New York to its Work Experience Program ("WEP") are required to work a specified number of hours each week in order to maintain their eligibility for continued public assistance. The Council further finds that WEP participants have not consistently been provided with appropriate terms and conditions of work. For example, participants have not consistently been provided with proper equipment and appropriate gear, such as, but not limited to: gloves, safety goggles, and proper clothing to protect them from the elements.

In addition, participants have not consistently been given the opportunity to informally resolve disputes with the sponsoring agency prior to the reporting of alleged failure or refusal to comply with program requirements to the local social services district. The Council therefore believes that a grievance procedure must be codified to ensure that WEP participants are permitted to address grievances that may arise out of their work assignments and to provide the opportunity to have these grievances resolved within the sponsoring agency in an expeditious and just manner.

The Council finds that the conciliation provision of New York State Social Services Law and its implementing regulations do not address efforts by participants and sponsoring agencies to resolve disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the State Social Services Law expresses no need for state-wide uniformity in the administration of local Public Assistance Employment Programs. Rather, by omitting direct regulation of local sponsoring agencies, the State Legislature recognized the strong local interest in designing alternatives not specifically provided by state law, in order to meet the needs of the local community. The purpose of this local law is therefore to meet the legitimate local interest of the city of New York in providing a mechanism for its residents who are participants in WEP to informally resolve disputes that may arise with local sponsoring agencies, prior to the involvement of the local social services district.

The Council recognizes that, pursuant to New York State Social Services Law §341, the New York City Human Resources Administration ("HRA") has established a conciliation procedure for individuals who are alleged to have violated work activities requirements and a procedure to resolve other disputes related to participation in work activities. However, the Council finds that the state-mandated procedure for individuals who are alleged to have violated work activities requirements does not provide a means for participants and sponsoring agencies to resolve such disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the HRA procedure to resolve disputes related to participation in work activities, to the extent it provides for sponsoring agency participation, is not enforceable by participants, and was not established pursuant to any powers or duties assigned or delegated to the HRA by the State of New York. Thus, the grievance procedure established by this local law neither overlaps with nor directly affects the procedures established by HRA pursuant to New York State law and regulations.

For all the foregoing reasons, the Council finds that the grievance procedure established by this local law is well within the powers of the Council under New York State Municipal Home Rule Law and the Charter of the City of New York.
117

[Footnote 117]: ** There are two sections 21-502.

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Title 21 Social Services

CHAPTER 5 WORK EXPERIENCE PROGRAM GRIEVANCE PROCEDURE*115

§ 21-503 Grievance procedure.**

a. The118 following procedure shall be established in order to allow for the timely resolution of grievances. A participant may elect to pursue a grievance pursuant to this chapter prior to the initiation of conciliation under §341 of New York State social services law. The sponsoring agency shall notify each participant orally and in writing at the start of each work assignment of the participant's rights and responsibilities under this procedure, including the right to resolve grievances under such procedure prior to the initiation of conciliation under §341 of New York State social services law, and of the name, work address, telephone number of and locations to submit a grievance to the participant's Step 1 supervisor and the sponsoring agency WEP coordinator. The sponsoring agency shall not notify the office of employment services ("OES") or any other designee of the local social services district of an alleged failure to comply with program or work activities requirements by the participant unless and until the Step 1 supervisor or a higher-level supervisor first notifies the participant orally and in writing that the gency intends to do so and why, and then only after completion of the procedure set forth in Steps 1 and 2. In the event there is an alleged failure by a participant to comply with a program or work activity requirement and no grievance is submitted during the time period set forth below, then the sponsoring agency may notify OES. Nothing herein shall limit the authority of the sponsoring agencies except as provided herein.

b. General Procedure.

i. Step 1. A participant's grievance shall be made verbally or in writing to his or her step 1 supervisor not later than five (5) working days after the act or omission complained of. Discussion and consideration of the grievance may be assisted by a higher level supervisor(s), who may be called in to help with the resolution process. The participant and the supervisor(s) shall work together to resolve the dispute to the satisfaction of both the participant and the sponsoring

agency. The grievance shall be considered and passed upon in writing within five (5) working days after it has been presented to the participant's step 1 supervisor. A copy of the written decision shall be given to the participant.

ii. Step 2. If a grievance is not resolved at step 1 to the satisfaction of the participant, within seven (7) working days after the participant has received a copy of the written decision rendered in step 1, the participant may appeal the initial decision verbally or in writing by requesting a discussion of the grievance with the sponsoring agency WEP coordinator. The participant and the sponsoring agency WEP coordinator shall work jointly for a mutually satisfactory resolution of the grievance. The appeal shall be considered and passed upon in writing within three (3) working days after the appeal has been made. A copy of the determination of the appeal shall be given to the participant.

iii. Step 3. If a grievance is not resolved at step 2 to the satisfaction of the participant, the participant may appeal the decision verbally or in writing to the social services district pursuant to social services law §341.

c. A participant grieving a work assignment or working conditions shall continue to work at their assigned sponsoring agency. If the grievance involves a claim that the assignment or condition is injurious to the participant's health or safety or that it exceeds his/her medical limitations, the sponsoring agency shall reassign the participant to a different work assignment that is not injurious to the participant's health or safety or claimed medical limitations.

d. At any stage of the grievance procedure established by this chapter, a participant shall have the right to representation by legal counsel, or by a relative, friend, or other spokesperson, or may represent him or herself.

HISTORICAL NOTE

Section added L.L. 13/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

115

[Footnote 115]: * There are two Chapters 5. This Chapter 5 added L.L. 13/2000 eff. Mar. 29, 2000.

Note provisions of L.L. 13/2000: Section 1. Declaration of Legislative Findings and Intent. The Council finds that certain recipients of public subsidies under the Family Assistance and Safety Net Assistance programs assigned by the city of New York to its Work Experience Program ("WEP") are required to work a specified number of hours each week in order to maintain their eligibility for continued public assistance. The Council further finds that WEP participants have not consistently been provided with appropriate terms and conditions of work. For example, participants have not consistently been provided with proper equipment and appropriate gear, such as, but not limited to: gloves, safety goggles, and proper clothing to protect them from the elements. In addition, participants have not consistently been given the opportunity to informally resolve disputes with the sponsoring agency prior to the reporting of alleged failure or refusal to comply with program requirements to the local social services district. The Council therefore believes that a grievance procedure must be codified to ensure that WEP participants are permitted to address grievances that may arise out of their work assignments and to provide the opportunity to have these grievances resolved within the sponsoring agency in an expeditious and just manner.

The Council finds that the conciliation provision of New York State Social Services Law and its implementing regulations do not address efforts by participants and sponsoring agencies to resolve disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the State Social Services Law expresses no need for state-wide uniformity in the administration of local Public Assistance Employment Programs. Rather, by omitting direct regulation of local sponsoring agencies, the

State Legislature recognized the strong local interest in designing alternatives not specifically provided by state law, in order to meet the needs of the local community. The purpose of this local law is therefore to meet the legitimate local interest of the city of New York in providing a mechanism for its residents who are participants in WEP to informally resolve disputes that may arise with local sponsoring agencies, prior to the involvement of the local social services district.

The Council recognizes that, pursuant to New York State Social Services Law §341, the New York City Human Resources Administration ("HRA") has established a conciliation procedure for individuals who are alleged to have violated work activities requirements and a procedure to resolve other disputes related to participation in work activities. However, the Council finds that the state-mandated procedure for individuals who are alleged to have violated work activities requirements does not provide a means for participants and sponsoring agencies to resolve such disputes at the level of the sponsoring agency prior to involvement of the social services district. The Council further finds that the HRA procedure to resolve disputes related to participation in work activities, to the extent it provides for sponsoring agency participation, is not enforceable by participants, and was not established pursuant to any powers or duties assigned or delegated to the HRA by the State of New York. Thus, the grievance procedure established by this local law neither overlaps with nor directly affects the procedures established by HRA pursuant to New York State law and regulations.

For all the foregoing reasons, the Council finds that the grievance procedure established by this local law is well within the powers of the Council under New York State Municipal Home Rule Law and the Charter of the City of New York.
118

[Footnote 118]: ** There are two sections 21-503.

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CHAPTER 5 WORK EXPERIENCE PROGRAM GRIEVANCE PROCEDURE*115

§ 21-504 Supportive services.*

Each119 sponsoring agency must provide such work-related materials, safety equipment, clothing (including uniforms, footwear, outerwear and inclement weather gear), tools and other equipment necessary in order for a participant to perform his or her assignment in a safe, appropriate and efficient manner.

Failure of the sponsoring agency to comply with this provision shall be grievable under this chapter.

FOOTNOTES

115

[Footnote 115]: * There are two Chapters 5. This Chapter 5 added L.L. 13/2000 eff. Mar. 29, 2000.

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119

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Title 21 Social Services

CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-501 Definitions.**

Whenever121 used in this chapter the following words shall have the following meanings:

a. "Affiliated organization" shall mean a local government agency or community-based organization that is affiliated with a sponsoring organization and employs certified individuals.

b. "Case management" shall mean the provision and coordination of services to participants to ensure their success in the transitional jobs program, and enhance their chances of securing permanent employment after their participation in such program. Such services shall include, but shall not be limited to, providing education and training, career counseling, and childcare. Such services shall also include assisting participants in obtaining all federal, state and local government benefits that they are otherwise entitled to, including, but not limited to, child care expenses, training-related expenses, food stamps, and medicaid or transitional medicaid.

c. "Certified individual" shall mean an individual certified by the commissioner to participate in the transitional jobs program.

d. "Commissioner" shall mean the commissioner of the department of employment or the commissioner or head of any other department or agency that the mayor designates to administer the transitional jobs program.

e. "Community-based organization" shall mean a non-profit organization providing services to, or operating for the benefit of, a particular community. Community-based organizations may also include a trade union that offers apprenticeship or pre-apprenticeship programs.

f. "Department" shall mean the department of employment, or any other department or agency that the mayor designates to administer the transitional jobs program.

g. "Participant" shall mean an individual employed by a sponsoring or affiliated organization in the transitional jobs program following eligibility determination and certification by the commissioner.

h. "Sponsoring organization" shall mean a local government agency or community-based organization selected by the commissioner to employ or facilitate the employment of certified individuals, and to provide case management to participants, provided, however, that nothing shall preclude a sponsoring organization from being a public, non-profit corporation created pursuant to applicable New York state law.

i. "Transitional jobs program" shall mean a program designed to create temporary employment in the public sector and in community-based organizations, and to provide the participants of such program with education and training, career counseling, and related services, to enhance their ability to secure permanent employment after their participation in such program.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

120

[Footnote 120]: * There are 2 Chapters 5. This Chapter 5 added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

Note provisions of chap 14/2000: Section 1. Legislative findings and intent. The City Council finds and declares that in the aftermath of federal welfare reform, thousands of new jobs are needed in New York City in order to employ those welfare recipients now required to work. Since New York City has a large number of people seeking new jobs, and since the City's communities need additional services that these job-seekers can provide, a welfare-to-work program that will create new, temporary jobs in the public sector and in community-based organizations, and provide individuals with education and training, career counseling, and related services will represent both an investment in human capital and in the vitality of this City.

Many individuals who need to make the transition from welfare to the work force face serious barriers to securing and maintaining successful employment, including a lack of marketable skills, education, work experience, and affordable childcare. A welfare-to-work program that offers a real work experience, pays a living wage, and provides health and childcare benefits, along with meaningful education and training, can be instrumental in successfully moving people from welfare to the work force in a manner that increases their long-term employability and self-sufficiency.

Accordingly, the City Council finds that a welfare-to-work program known as the transitional jobs program should be established in New York City. The transitional jobs program will create temporary jobs in the public sector and in community-based organizations, and will provide participants of the program with education and training, career counseling, and related services. The provision of support services will significantly increase a participant's chances of securing and maintaining permanent employment after his or her participation in the program. In addition, the creation of new jobs in the public sector and in community-based organizations will help address the unmet needs of many communities throughout the City.
121

[Footnote 121]: ** There are two sections 21-501.

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Title 21 Social Services

CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-502 Transitional jobs program.*

a. The122 mayor shall direct the commissioner to establish a transitional jobs program, which shall consist of a total of two thousand five hundred temporary jobs in the public sector and in community-based organizations, at least two-thirds of which shall be created within local government agencies in the public sector. Such total number of two thousand five hundred temporary jobs shall exist for a period of thirty-six months, commencing on January first, two thousand one; provided, however, that each participant in the transitional jobs program shall only be employed by a sponsoring or affiliated organization for a period not to exceed twelve months, and that each specific job created pursuant to the transitional jobs program shall be retained for at least twelve months. An initial group of two thousand five hundred participants shall commence employment on January first, two thousand one. A second group of two thousand five hundred participants shall commence employment on January first, two thousand two, and a final group of two thousand five hundred participants shall commence employment on January first, two thousand three.

b. The jobs created in local government agencies pursuant to this chapter shall, consistent with applicable collective bargaining laws and agreements, be accreted to appropriate existing collective bargaining units.

c. In implementing the transitional jobs program, the mayor shall direct the commissioner to select which local government agencies shall be sponsoring organizations. In making such determination, the commissioner may work in cooperation with the commissioners of other local government agencies and may, consistent with obligations under collective bargaining laws and agreements, consult with the heads of collective bargaining organizations, and may consider each prospective agency's prior experience hiring welfare recipients and the unemployed, its prior experience assisting such individuals in finding jobs, its prior experience providing education and training, career counseling, and related services to its employees, its plans to address or fulfill the needs of communities throughout the city of New

York, its plans to employ or facilitate the employment of certified individuals, its plans to provide case management to participants, and its plans to assist in the permanent placement of participants following their participation in the transitional jobs program.

d. In meeting the goal of placing participants in community based organizations pursuant to this chapter, the mayor may direct the commissioner to issue a request for proposals or to utilize any other procurement method that he or she deems necessary to select community-based organizations to become sponsoring organizations. To determine which community-based organizations shall become sponsoring organizations, the commissioner may consider an organization's prior experience hiring welfare recipients and the unemployed, its prior experience assisting such individuals in finding jobs, its prior experience providing education and training, career counseling, and related services to its employees, its plans to address or fulfill the needs of communities throughout the city of New York, its plans to employ or facilitate the employment of certified individuals, its plans to provide case management to participants, and its plans to assist in the permanent placement of participants following their participation in the transitional jobs program. Where the employees of a community-based organization that has been selected to become a sponsoring or affiliated organization are members of a collective bargaining unit, such collective bargaining unit shall, consistent with applicable collective bargaining laws and agreements, have the opportunity to comment on such selection. The commissioner shall respond to such comments within fifteen days of their receipt.

e. Each sponsoring or affiliated organization may employ any certified individual, and employment with a sponsoring or affiliated organization shall be for a period not to exceed twelve months.

f. The sponsoring organizations shall provide each participant with the necessary case management to enable the participant to succeed in the transitional jobs program, build his or her job skills, and enhance his or her chances of securing permanent employment after participating in the transitional jobs program.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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Many individuals who need to make the transition from welfare to the work force face serious barriers to securing and maintaining successful employment, including a lack of marketable skills, education, work experience, and affordable childcare. A welfare-to-work program that offers a real work experience, pays a living wage, and provides health and childcare benefits, along with meaningful education and training, can be instrumental in successfully moving people from welfare to the work force in a manner that increases their long-term employability and self-sufficiency.

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Title 21 Social Services

CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-503 Powers and duties of the commissioner.*

Except123 as otherwise provided by law, the commissioner shall have the power and it shall be the commissioner's duty to perform the following functions and duties relating to the transitional jobs program:

1. To ensure that at least sixty percent of all participants were receiving family assistance at the time of their certification, and that at least forty percent of all participants were either receiving safety net assistance, were unemployed for at least six months or had exhausted their unemployment insurance at the time of their certification. The commissioner shall also ensure that at least fifty percent of all participants faced serious barriers to employment or were participating in the work experience program at the time of their certification. Serious barriers to employment shall include, but not be limited to, a lack of basic work-related skills, a high school diploma or English proficiency. In addition, any person who is either a teen parent, a former substance user, disabled, homeless or a victim of domestic violence, or any person who has a criminal record, HIV/AIDS or an HIV/AIDS-related illness or any other life-threatening illness shall be presumed to face serious barriers to employment;

2. To establish an application procedure for those individuals seeking to participate in the transitional jobs program;

3. To request that community-based organizations and all local government agencies, including private industry councils, social services intake centers and unemployment offices, publicize the existence of the transitional jobs program to those individuals who may be eligible to participate in such program;

4. To notify recipients of family assistance and safety net assistance of their right to apply for participation in the

transitional jobs program;

5. To certify eligible individuals for participation in the transitional jobs program, to promptly notify such certified individuals of their certification in writing, and to establish a list of all certified individuals for use by the sponsoring organizations;

6. To develop an assessment formula to evaluate the job skills, the prior work and educational experience and the case management needs of each certified individual, and to provide such information to the appropriate sponsoring organization;

7. To ensure that the sponsoring organizations provide each participant with the necessary case management to help the participant to succeed in the transitional jobs program, build his or her job skills, and enhance his or her chances of securing permanent employment after participating in the transitional jobs program;

8. To ensure that participants are informed of their eligibility to receive state and federal earned income tax credit and are offered assistance in applying for advance payment of such credit;

9. To ensure that each community-based organization is in compliance with section 21-505(g) of this chapter, and to further ensure that a community-based organization that submits false information under section 21-505(g) of this chapter shall not be permitted to be a sponsoring or affiliated organization in the transitional jobs program; and

10. To ensure that the powers and duties of the commissioner as set forth in this section are carried out by public employees.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

120

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Many individuals who need to make the transition from welfare to the work force face serious barriers to securing and maintaining successful employment, including a lack of marketable skills, education, work experience, and affordable childcare. A welfare-to-work program that offers a real work experience, pays a living wage, and provides health and childcare benefits, along with meaningful education and training, can be instrumental in successfully moving people from welfare to the work force in a manner that increases their long-term employability and self-sufficiency.

Accordingly, the City Council finds that a welfare-to-work program known as the transitional jobs program should be established in New York City. The transitional jobs program will create temporary jobs in the

public sector and in community-based organizations, and will provide participants of the program with education and training, career counseling, and related services. The provision of support services will significantly increase a participant's chances of securing and maintaining permanent employment after his or her participation in the program. In addition, the creation of new jobs in the public sector and in community-based organizations will help address the unmet needs of many communities throughout the City.
123

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-504 Eligibility criteria.*

A certified124 individual must be eighteen years of age or older and must either (i) be receiving family assistance or safety net assistance; (ii) have lost his or her aid to families with dependent children, home relief, family assistance or safety net assistance as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or state implementing law; or (iii) have been unemployed for a period of at least six months or have either been denied unemployment insurance or exhausted his or her unemployment insurance benefits.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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124

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-505 Duties of the sponsoring and affiliated organization.

a. The sponsoring organization shall create positions for participants that are comparable to the positions of other employees in such organization. In creating such positions, the sponsoring organization shall consider the responsibilities associated with a particular position and the participant's training and prior work experience.

b. In those cases where the sponsoring organization is unable to provide a certified individual with an appropriate position, such sponsoring organization shall facilitate employment with an affiliated organization in a position comparable to the positions of other employees in such affiliated organization. In providing such a position, the affiliated organization shall consider the responsibility associated with a particular position and such certified individual's training and work experience.

c. The sponsoring organization shall provide case management to participants employed by such organization or by such organization's affiliated organization. The affiliated organization shall not be responsible for providing case management to the participant.

d. Neither a sponsoring nor an affiliated organization may place a certified individual in a position with a for-profit employer.

e. A community-based organization that is a trade union may only place certified individuals in apprenticeship and pre-apprenticeship programs that are offered by such trade unions.

f. A community-based organization shall certify to the commissioner that such organization has not, in the past

five years, been convicted of a felony or a misdemeanor the underlying basis of which involved workplace safety and health or labor standards. Such community-based organization shall also certify to the commissioner as to all violations issued by the New York state department of labor. A community-based organization that submits false information under this subdivision shall not be permitted to be a sponsoring or affiliated organization in the transitional jobs program.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-506 Participants.

a. Participation in the transitional jobs program shall be for a period not to exceed twelve months.

b. A participant who is not a member of a collective bargaining unit shall receive a salary of not less than fifty percent of the Lower Living Standard Income Level (LLSIL), as established annually by the United States department of labor and adjusted by the New York state department of labor for the New York city area using the New York city area LLSIL hourly rate based on a thirty-hour workweek in full-year employment for a family of three. Notwithstanding such minimum salary requirement, a participant may not be compensated at a rate of pay that is less than that of other employees of the sponsoring or affiliated organization employing such participant, who are performing the same or comparable work.

c. A participant who is not a member of a collective bargaining unit shall be entitled to the same paid holidays and benefits permissible by law as other employees of the sponsoring or affiliated organization employing such participant, who are performing the same or comparable work.

d. A participant who is a member of a collective bargaining unit shall, consistent with collective bargaining laws and agreements, receive, at a minimum, the salary and benefits provided for in subdivisions b, c and e of this section, provided however, that such subdivisions shall not be construed to limit the collective bargaining unit's right to negotiate more favorable wages and/or any other terms and conditions of employment.

e. A participant shall work the standard work hours required by the sponsoring or affiliated organization which employs such participant, except that in no instance shall a participant be required to work more than forty hours per

week. A participant shall be excused, when necessary, for up to an average of eight hours per week from their scheduled work hours to participate in adult education, job training, and job readiness or placement services. The sponsoring organization shall prepare the participant's work schedule and may allocate additional hours during any work week to be spent on adult education, job training, and job readiness or placement services, so long as over the course of the participant's employment, no more than an average of eight hours per week is allocated to these activities. A participant shall be compensated as set forth in subdivision b of this section when such participant engages in adult education, job training, or job readiness and placement services as provided for in this subdivision.

f. A participant shall be considered an employee for purposes of the city's human rights and collective bargaining laws and any other applicable local laws, unless otherwise prohibited by law; provided, however, that nothing herein shall limit the participant's rights under any applicable federal or state law. In implementing the transitional jobs program, the mayor or his or her designee, shall take any necessary and/or appropriate actions to classify participants employed by local government agencies in accordance with all applicable civil service laws and consistent with the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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[Footnote 120]: * There are 2 Chapters 5. This Chapter 5 added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

Note provisions of chap 14/2000: Section 1. Legislative findings and intent. The City Council finds and declares that in the aftermath of federal welfare reform, thousands of new jobs are needed in New York City in order to employ those welfare recipients now required to work. Since New York City has a large number of people seeking new jobs, and since the City's communities need additional services that these job-seekers can provide, a welfare-to-work program that will create new, temporary jobs in the public sector and in community-based organizations, and provide individuals with education and training, career counseling, and related services will represent both an investment in human capital and in the vitality of this City.

Many individuals who need to make the transition from welfare to the work force face serious barriers to securing and maintaining successful employment, including a lack of marketable skills, education, work experience, and affordable childcare. A welfare-to-work program that offers a real work experience, pays a living wage, and provides health and childcare benefits, along with meaningful education and training, can be instrumental in successfully moving people from welfare to the work force in a manner that increases their long-term employability and self-sufficiency.

Accordingly, the City Council finds that a welfare-to-work program known as the transitional jobs program should be established in New York City. The transitional jobs program will create temporary jobs in the public sector and in community-based organizations, and will provide participants of the program with education and training, career counseling, and related services. The provision of support services will significantly increase a participant's chances of securing and maintaining permanent employment after his or her participation in the program. In addition, the creation of new jobs in the public sector and in community-based organizations will help address the unmet needs of many communities throughout the City.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-507

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-507 Grievance procedure.

The commissioner shall establish and maintain a grievance procedure for the filing and resolution of complaints by participants who are not members of a collective bargaining unit. Such grievance procedure shall provide for a hearing within twenty business days after the filing of a participant's complaint. The commissioner shall notify the participant of the date, time, and place of the hearing within five business days after the filing of such complaint. The commissioner may attempt to informally resolve any complaint prior to the hearing, but any such attempt shall not delay the date of the hearing, unless a participant specifically consents in writing to a postponement of such hearing. A written decision shall be issued within ten business days after the hearing. Nothing in this section shall be construed to limit the right of any participant, including a participant who is a member of a collective bargaining unit or a participant represented by a designated employee spokesperson, from pursuing other available remedies under any applicable collective bargaining agreement, or any federal, state or local law.

HISTORICAL NOTE

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NYC Administrative Code 21-508

Administrative Code of the City of New York

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-508 Reports to the mayor and city council.

On April first of the years two thousand two, two thousand three, and two thousand four, the commissioner shall issue a report to the mayor and the city council evaluating the program. The report shall include, but not be limited to:

1. The name and description of each sponsoring and affiliated organization, and a summary of each organization's accomplishments;

2. The total number of certified individuals and participants in the transitional jobs program;

3. An analysis of the impact of the transitional jobs program on the permanent workforce within each sponsoring or affiliated organization, including, but not limited to, a change in the number of non-participant employees, the number of hours worked by non-participant employees, the amount of overtime required of non-participant employees, the number of promotions awarded to non-participant employees and the amount of wages earned by non-participant employees;

4. The average length of time a participant is employed;

5. A summary of the education and training, career counseling and related services provided to participants;

6. The number and percentage of participants who were able to secure permanent employment after their participation in the transitional jobs program, and their wage and benefit levels;

7. The estimated dollar value of the jobs created by the transitional jobs program;

8. The estimated local economic impact of the jobs created by the transitional jobs program;

9. The estimated savings by federal, state and local governments as a result of reductions in social services and public assistance benefits that would otherwise have been provided to a participant and his or her family were it not for his or her participation in the transitional jobs program;

10. The estimated tax revenues received by federal, state and local governments from participants;

11. The estimated state and federal earned income tax credit received by participants;

12. An analysis of the impact of the transitional jobs program on the overall welfare of participants and their families;

13. The amount of funds appropriated and expended on the administration of the transitional jobs program; and

14. Whether the transitional jobs program has met the criteria established by the United States health and human services department for participation in the welfare bonus program in order to receive bonus funding available to selected states that successfully place welfare recipients in jobs as provided for by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-509 Displacement of employees.

a. A certified individual may be employed by a sponsoring or affiliated organization only if:

1. such employment would not result in (i) the displacement of any currently employed worker or the loss of a position (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits) or the impairment of existing contracts for services or collective bargaining agreements; (ii) any infringement of the promotional opportunities of any current employees; (iii) the performance, by such certified individual, of a substantial portion of the work ordinarily and actually performed by regular employees; or (iv) the loss of a bargaining unit position as a result of a participant performing, in part or in whole, the work normally performed by a regular employee;

2. such employment is not at any work site at which regular employees are on a legal strike or are being subjected to lock out by the sponsoring or affiliated organization;

3. no other regular employee is available for reinstatement, recall or reemployment following an approved leave of absence, furlough, layoff or suspension from the same or substantially equivalent job; or

4. the sponsoring or affiliated organization has not terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy or vacancies so created with certified individuals.

b. Community-based organizations who are awarded contracts to become a sponsoring organization shall at the time of award provide written notification to its employees' collective bargaining representatives, if any, regarding such

plan. The notice shall include, at a minimum, the participants' expected work locations, job duties, approximate salaries, and the approximate number of hours to be worked.

c. Local government agencies planning to enter into an agreement with the department to become a sponsoring organization shall provide written notification to its employees' collective bargaining representatives, if any, regarding such plan. The notice shall include, at a minimum, the participants' expected work locations, job duties, approximate salaries, and the approximate number of hours to be worked.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-510

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-510 Rules.

The commissioner shall make and promulgate such rules and regulations as are necessary to carry out the provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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CHAPTER 5 DEPARTMENT OF EMPLOYMENT*120 Transitional Jobs Program

§ 21-511 Severability.

If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

HISTORICAL NOTE

Section added L.L. 14/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

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Title 21 Social Services

CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-701 Definitions.

When used in this chapter, the following words have the following meanings:

a. "Agency" means the city agency responsible for administering programs created under title 9-B of article five of the social services law.

b. "Applicant" means an individual who has submitted an application for safety net assistance, family assistance or food stamps.

c. "Approved program" means education, training and/or vocational rehabilitation that is provided by an entity that is licensed, certified or otherwise approved by the city or state government to provide such education, training and/or vocational rehabilitation; or is funded to provide training or education services through Title I and/or Title II of the Workforce Investment Act; or is included on the Consolidated Master List of Approved Training Programs.

d. "Assessment" has the same meaning as set forth in sections 335 and 335-a of the social services law.

e. "Assessment period" means the 90-day period of time after an individual is found to be eligible for public assistance within which the agency must complete the assessment.

f. "Basic literacy" means a literacy level equivalent to the ninth month of the eighth grade and English language proficiency.

g. "Course hours" means all hours included in the curriculum of an approved program, including classroom

hours, lab time, and supervised or structured study time.

h. "Consolidated master list of approved training programs" means the list of education and training providers maintained by the agency that have been approved pursuant to section 3-03 of title 68 of the rules of the city of New York.

i. "Countable work activities" means any activity or combination of activities listed under section 336 of the social services law, the participation in which counts toward the satisfaction of the New York social service district's requirements to meet federal and state participation rates as set forth in sections 335-b and 336 of the social services law.

j. "Effective participation rate" means the rate of participation in work activities necessary to satisfy the minimum participation required by state and federal law for recipients of public assistance.

k. "Employability plan" shall have the same meaning as set forth in sections 335 and 335-a of the social services law.

l. "English language proficiency" means scoring above fifty on the New York State Placement Test (NYS PLACE) or achieving an equivalent score on a comparable test.

m. "Opportunity to enroll in an approved program or programs" means permitting an applicant, recipient or participant to attend all activities required to participate in the program, including orientation and registration.

n. "Parental study credit" is a number of hours that will be applied toward the countable work activity of an applicant, recipient or participant who is the parent or guardian of at least one dependent child or children under the age of six for the first twenty-four months of participation in an approved program, other than a post-secondary 2- or 4-year degree program, in which the curriculum does not include lab time or supervised or structured study time. Such hours will be calculated by multiplying the number of course hours in the applicant, recipient or participant's program by .5.

o. "Participant" means an applicant or recipient for whom the agency has completed an assessment or employability plan, or whom the agency has assigned to any work activity.

p. "Program credit" means the number of hours applied toward the applicant, recipient or participant's countable work activity as a result of participation in an approved program. Such hours equal the greater of:

1. the sum of the parental study credit and the number of classroom hours in the approved program; or

2. the number of weekly course hours in the approved program.

q. "Qualifying year" means a City fiscal year during which all of the following conditions are met:

1. federal and state law provide for a caseload reduction credit;

2. in the last two fiscal years for which published data is available, New York State exceeded the effective participation rate by at least 10%; 3. New York City's public assistance caseload has not increased by more than 25% over the last six months for which reported numbers are available.

r. "Recipient" means an individual currently receiving safety net assistance, family assistance or food stamps.

s. "Satisfactory progress" means:

1. maintaining a minimum grade point average of 2.0 or its equivalent; or

2. making satisfactory educational progress reasonably calculated to achieve the standards of the educational program, for any individual enrolled in any program not included in paragraph 1 of this subdivision.

t. "Search period" means the fifteen business day period before the assessment that begins when an applicant or recipient expresses an interest in education, training or vocational rehabilitation.

u. "Undue hardship exemption" means an exemption from the requirement to make satisfactory progress in an approved program granted by the agency based on:

1. the death of a relative of the student;

2. the personal injury or illness of the student; or

3. other extenuating circumstances

HISTORICAL NOTE

Section added L.L. 23/2003 § 2, eff. July 8, 2003.

FOOTNOTES

126

[Footnote 126]: * Chapter added L.L. 23/2003 § 2. Vetoed Mar. 13, 2003. Repassed Apr. 9, 2003 effective July 8, 2003. Note:

Section 1. Declaration of legislative findings and intent. The Council finds that advances in educational attainment, from basic literacy to college, enhance an individual's ability to secure employment, employment longevity and level of earnings. Detailed and persuasive studies indicate that education levels play a major role in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. Education and training, including adult education, English classes, vocational training and rehabilitation, and college education, are proven means of helping public assistance recipients move off welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs.

Education and training are essential components of the next step for welfare reform in New York City, which will better enable people to move from welfare into living wage jobs. Moreover, any removal of a recipient from dependency on tax funded assistance dollars is a service to the community. Therefore, any education or training engaged in to that end serves the community's interest. As a matter of policy, the city should administer its welfare programs so that participation in education and training programs is available to the maximum extent permitted by federal and state law. Treating education and training as an integral part of work requirements would enable staff of the Human Resources Administration, working with public assistance recipients, to craft a plan that maximizes the opportunity for each individual to move into long-term employment at a living wage. The Council adopts this local law to expand public assistance recipients' access to education and training programs so that they may gain independence and become truly and permanently self-sufficient.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-702

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-702 Assessments, employability plans and reassessments.

a. During a period of no more than 45 days within the assessment period, the agency shall conduct and complete an assessment of employability and shall develop a written employability plan, pursuant to sections 335 and 335-a of the social services law, for each applicant or recipient, provided that the agency is not required to complete an assessment for applicants for and recipients of food stamps only who are already engaged in unsubsidized employment. Prior to the assessment, the agency may not assign an individual to any work activity. During the assessment, the agency may not assign an individual to any work activity, except for job search activity.

b. The agency shall provide each participant with a copy of such participant's employability plan upon completion of such employability plan.

c. If an applicant who expresses an interest in or preference for participating in training or education is found not to be eligible for training and education as set forth in section 21-703, the reasons shall be specified in the employability plan.

d. The agency will conduct a reassessment of employability for a participant who expresses an interest in discontinuing a work activity to which that individual has been assigned and enrolling in an education or training program if the participant has been engaged in the work activity for six months or more, or the participant's assignment to a work activity ends and the agency seeks to reassign the participant to another work activity.

HISTORICAL NOTE

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NYC Administrative Code 21-703

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CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-703 Assignment of individuals engaged in or expressing an interest in engaging in education and training and/or vocational rehabilitation activities to other work activities.

a. If an applicant, recipient or participant is enrolled in an approved program, then the agency shall permit such applicant, recipient or participant to participate in such approved program provided such approved program can be classified as a countable work activity.

b. If an applicant, recipient or participant who is eligible for education or training as set forth in subdivision c of this section expresses an intention or preference to the agency to enroll in education, training or vocational rehabilitation, or if an applicant's, recipient's or participant's assessment indicates that he or she lacks basic literacy, a secondary school diploma, or a general equivalency diploma (GED) or otherwise indicates that education, training or vocational rehabilitation would enhance the individual's ability to obtain and maintain employment, then the agency shall offer such applicant, recipient or participant the opportunity to enroll in an approved program or programs, provided that such approved program or programs can be classified as countable work activities.

c. Eligibility for education or training:

1. An applicant, recipient or participant is eligible to participate in a post-secondary two- or four-year college program if s/he has:

(a) been accepted to attend a two- or four-year college program; and

(b) not yet received a degree from a four-year college.

2. An applicant, recipient or participant is eligible to participate in adult basic education if s/he has not attained basic literacy.

3. An applicant, recipient or participant is eligible to participate in English for Speakers of Other Languages (ESOL) if s/he does not have English language proficiency.

4. An applicant, recipient or participant is eligible to participate in a GED program if s/he has attained basic literacy but has not received a secondary school diploma.

5. An applicant, recipient or participant is eligible to participate in a vocational education program if s/he:

(a) has been accepted into the program;

(b) has not yet completed a program teaching the same set of skills offered by the program by which s/he has been accepted;

(c) has not commenced participation in an unrelated vocational education course within the last 90 days;

(d) has not enrolled in and failed a vocational education course three times during the time s/he has received public assistance; and

(e) has not for 24 months or more during the time the individual has received public assistance attended a vocational education program or combination of vocational education programs that included more than 15 course hours per week.

6. An applicant, recipient or participant who is not eligible for education or training as set forth in paragraphs 1 through 5 of this subdivision may attend an education or training program with agency approval. In deciding whether to grant an individual approval to attend an education or training program under this paragraph, the agency shall consider extenuating circumstances that have affected the individual's eligibility as set forth in paragraphs 1 through 5 of this subdivision.

d. During the search period, the agency may not assign an applicant or recipient to any activities.

e. The agency shall classify education, training and vocational rehabilitation activities as countable work activities to the maximum extent permitted by state and federal law. Activities which shall be classified as both "on-the-job training" and "community service" in the New York City Social Services District Welfare to Work Plan that is required pursuant to section 333 of the social services law shall include but not be limited to: internships and externships related to the curriculum of a non-graduate student enrolled in an approved post-secondary institution; GED instruction; Adult Basic Education; ESOL; vocationally-oriented training and education programs; and activities engaged in pursuant to an individualized plan of employment as designed by the New York state department of education, office of vocational and educational services for individuals with disabilities (VESID). If the New York state department of labor does not permit the classification of any of the above-listed activities as "on-the-job training," then the agency shall classify the disallowed activity or activities as only "community service". Work-study shall be classified as "unsubsidized employment" in the New York City Social Services District Welfare to Work Plan that is required pursuant to section 333 of the social services law.

f. Credit for Participation. An applicant, recipient or participant who is making satisfactory progress in an approved program or has an undue hardship exemption shall receive program credit for such participation.

g. When assigning an applicant, recipient or participant who is engaged in an educational, training or vocational rehabilitation activity to any additional activity, the agency shall take all reasonable steps to locate an assignment that is either at the site of the educational, training or vocational rehabilitation activity or in reasonably close proximity thereto

and which does not conflict with the hours during which such individual's educational, training and vocational rehabilitation activity takes place.

h. The agency shall not require any applicant, recipient or participant who is enrolled at least half-time at CUNY, SUNY, or at any other post-secondary degree-granting educational program or who is participating in any approved program that can be classified as a countable work activity to participate in any other activity for more than 35 hours or the minimum number of hours necessary to count such applicant, recipient or participant as "engaged in work" for purposes of calculating the city's work participation rates as set forth in sections 335-b and 336 of the social services law, whichever is greater.

i. Postsecondary Education: 2- and 4-year degree programs.

1. In every qualifying year, an applicant, recipient or participant may enroll in a postsecondary 2- or 4-year degree program if the individual engages in a combination of educational activities in connection with a course of study time, training, employment, study, or work experience for an average of no less than 35 hours or the minimum number of hours per week that sections 335-b and 336 of the social services law would require for an applicant, participant or recipient to be "engaged in work," whichever is greater.

2. During the period an individual participates in a postsecondary 2- or 4-year degree program under this subdivision, the individual must make satisfactory progress in the program or have an undue hardship exemption.

3. For purposes of determining hours per week under subparagraph 1 of this subdivision, an applicant, recipient or participant who is a parent or guardian of a dependent child will receive one hour of study time for every hour of class time during the first 24 months of participation in the postsecondary degree program.

4. Individuals engaging in activities pursuant to this subdivision shall be deemed to be participating in activities pursuant to Title 9-b of the social services law and shall be eligible for supportive services pursuant to section 332-a of the social services law.

j. An individual engaged in, or accepted to engage in, activities pursuant to an individualized plan of employment (IPE) as designed by the New York state department of education, office of vocational and educational services for individuals with disabilities (VESID), shall be considered work limited pursuant to section 332-b(3) of the social services law upon submission to the agency of the IPE and supporting medical documentation. In such cases, the IPE shall be considered to be a part of the individual's treatment plan pursuant to section 335-b(5)(e) of the social services law.

HISTORICAL NOTE

Section added L.L. 23/2003 § 2, eff. July 8, 2003.

FOOTNOTES

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[Footnote 126]: * Chapter added L.L. 23/2003 § 2. Vetoed Mar. 13, 2003. Repassed Apr. 9, 2003 effective July 8, 2003. Note:

Section 1. Declaration of legislative findings and intent. The Council finds that advances in educational attainment, from basic literacy to college, enhance an individual's ability to secure employment, employment longevity and level of earnings. Detailed and persuasive studies indicate that education levels play a major role

in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. Education and training, including adult education, English classes, vocational training and rehabilitation, and college education, are proven means of helping public assistance recipients move off welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs.

Education and training are essential components of the next step for welfare reform in New York City, which will better enable people to move from welfare into living wage jobs. Moreover, any removal of a recipient from dependency on tax funded assistance dollars is a service to the community. Therefore, any education or training engaged in to that end serves the community's interest. As a matter of policy, the city should administer its welfare programs so that participation in education and training programs is available to the maximum extent permitted by federal and state law. Treating education and training as an integral part of work requirements would enable staff of the Human Resources Administration, working with public assistance recipients, to craft a plan that maximizes the opportunity for each individual to move into long-term employment at a living wage. The Council adopts this local law to expand public assistance recipients' access to education and training programs so that they may gain independence and become truly and permanently self-sufficient.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-704

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-704 Notice of rights and responsibilities.

a. The agency shall inform applicants, recipients and participants of all rights, entitlements and agency obligations required under this chapter.

b. Any notice directing an applicant, recipient or participant to report for an assessment, the development of an employability plan, or a work-related assignment, shall contain a description of the rights to pursue education and training activities as set forth in this chapter, and shall contain the following statement:

"Your Education and Training Rights When you come for your appointment, we will tell you about your rights to participate in education and training programs. The hours you spend in education and training programs may count toward your work requirement. A Master List of Programs You have a right to receive the complete "HRA Consolidated Master List of Approved Training Programs." This is a list of education and training programs you can choose to go to. Hours spent in any program on that list will count toward your work requirement. Other Choices for Training and Education You can also go to education or training programs that are not on the Consolidated Master List. However, those programs must meet appropriate City or State standards. Time To Find the Right Program for You If you need to participate in an education or training program in order to improve your chances of getting a job, we must give you 15 business days before your assessment, upon your request, to find an appropriate education or training program. If You Are Already In an Education or Training Program If you are already in school we must allow you to remain in your program as long as your program appears on the "HRA Consolidated Master List of Approved Training Programs" or meets the City or State standards mentioned above. Reassessment If you are dissatisfied with the work activity to which you have been assigned for six months or more and you believe that you are eligible to attend education or training, you should request a reassessment of your employability. If you are found to be

eligible to attend a training or education program, you can switch into an education or training program. Again, your choice must appear on the "HRA Consolidated Master List of Approved Training Programs" or meet appropriate City or State standards. If you are already in a work activity, you do not have a 15 business day period to find an education or training program. In this case, you must continue in your work activity while you look for an education or training program. Your Right to a Fair Hearing The agency must give you a copy of your employability plan. You have a right to a fair hearing to challenge your assignment."

HISTORICAL NOTE

Section added L.L. 23/2003 § 2, eff. July 8, 2003.

FOOTNOTES

126

[Footnote 126]: * Chapter added L.L. 23/2003 § 2. Vetoed Mar. 13, 2003. Repassed Apr. 9, 2003 effective July 8, 2003. Note:

Section 1. Declaration of legislative findings and intent. The Council finds that advances in educational attainment, from basic literacy to college, enhance an individual's ability to secure employment, employment longevity and level of earnings. Detailed and persuasive studies indicate that education levels play a major role in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. Education and training, including adult education, English classes, vocational training and rehabilitation, and college education, are proven means of helping public assistance recipients move off welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs.

Education and training are essential components of the next step for welfare reform in New York City, which will better enable people to move from welfare into living wage jobs. Moreover, any removal of a recipient from dependency on tax funded assistance dollars is a service to the community. Therefore, any education or training engaged in to that end serves the community's interest. As a matter of policy, the city should administer its welfare programs so that participation in education and training programs is available to the maximum extent permitted by federal and state law. Treating education and training as an integral part of work requirements would enable staff of the Human Resources Administration, working with public assistance recipients, to craft a plan that maximizes the opportunity for each individual to move into long-term employment at a living wage. The Council adopts this local law to expand public assistance recipients' access to education and training programs so that they may gain independence and become truly and permanently self-sufficient.

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NYC Administrative Code 21-705

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-705 Submission of plan to state department of labor.

To the extent that provisions of this chapter are subject to the approval of the state department of labor, the agency shall include such provisions in the city's biennial plan to the state department of labor in accordance with section 333 of the social services law. In the event the local law that added this chapter becomes effective during the operation of a biennial plan, then the agency shall submit a modified plan to the state department of labor pursuant to title 12, section 1300.00 of the New York codes, rules and regulations within thirty days of enactment of the local law that added this chapter.

HISTORICAL NOTE

Section added L.L. 23/2003 § 2, eff. July 8, 2003.

FOOTNOTES

126

[Footnote 126]: * Chapter added L.L. 23/2003 § 2. Vetoed Mar. 13, 2003. Repassed Apr. 9, 2003 effective July 8, 2003. Note:

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attainment, from basic literacy to college, enhance an individual's ability to secure employment, employment longevity and level of earnings. Detailed and persuasive studies indicate that education levels play a major role in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. Education and training, including adult education, English classes, vocational training and rehabilitation, and college education, are proven means of helping public assistance recipients move off welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-706

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 7 EDUCATION AND TRAINING FOR PUBLIC ASSISTANCE RECIPIENTS*126

§ 21-706 Severability.

If any provision of this chapter, or the local law that added this chapter, or of any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate the remainder of this chapter or the local law that added this chapter, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

HISTORICAL NOTE

Section added L.L. 23/2003 § 2, eff. July 8, 2003.

FOOTNOTES

126

[Footnote 126]: * Chapter added L.L. 23/2003 § 2. Vetoed Mar. 13, 2003. Repassed Apr. 9, 2003 effective July 8, 2003. Note:

Section 1. Declaration of legislative findings and intent. The Council finds that advances in educational attainment, from basic literacy to college, enhance an individual's ability to secure employment, employment

longevity and level of earnings. Detailed and persuasive studies indicate that education levels play a major role in determining whether workers will become dislocated and, if dislocated, how successful they will be in securing new jobs and recovering lost earning power. Education and training, including adult education, English classes, vocational training and rehabilitation, and college education, are proven means of helping public assistance recipients move off welfare and into living wage jobs that allow them to achieve lasting self-sufficiency. Moreover, the State Department of Labor reports that 75% of New York City's major employers require college degrees or training beyond high school for entry level jobs.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-801

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 8*142 DAY LABORER JOB CENTERS

§ 21-801 Temporary Commission on Day Laborer Job Centers.

a. There is hereby established a temporary advisory commission on immigrant day laborer job centers (the "Commission"), which shall examine the feasibility of fostering public/private partnerships to develop and implement job centers for day laborers.

b. The Commission shall consist of 20 members, at least 12 of whom shall be immigrant day laborers or representatives of groups with experience working on issues affecting immigrant day laborers. The mayor shall appoint six of these members, at least three of whom shall be immigrant day laborers, and the speaker of the city council shall appoint six of these members, at least four of whom shall be immigrant day laborers. The mayor shall appoint four of the remaining members of the Commission, who shall include the commissioner of the mayor's office on immigrant affairs, the commissioner of the department for small business services and the commissioner of the new york city police department, or their designees. The speaker of the city council shall appoint four of the remaining members. The Commission shall be chaired by the commissioner for the mayor's office of immigrant affairs or a designee. The Commission shall include at least one person with experience in academic research regarding immigrant day labor.

c. The members of the Commission shall be appointed within forty-five days of the effective date of this section and shall serve without compensation, except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city charges. Any member of the Commission may be removed from the Commission by the appointing official for cause. Any vacancy occurring by removal or for any other reason shall be filled by the appointing official in the same manner as the original appointment. The terms of members of the Commission shall expire one month after the Commission submits the report required by subdivision h of this section.

d. Membership on the Commission shall not constitute the holding of a public office and members of the Commission shall not be required to take and file oaths of office before serving on the Commission.

e. No person shall be ineligible for membership on the Commission because such person holds any public office, employment or trust, nor shall any person be made ineligible for or forfeit such person's right to any public office, employment or trust by reason of such appointment.

f. The Commission may ask the mayor's office on immigrant affairs to provide staff assistance to the Commission in all matters under the Commission's jurisdiction.

g. The Commission may request and may receive information from any agency as may be necessary to carry out the provisions of this chapter, in accordance with applicable laws, rules and regulations, including, but not limited to, the exceptions to disclosure of agency records contained in the public officers law. Nothing in this chapter shall be construed as limiting any right or obligation of agencies pursuant to the public officers law, including the exceptions to disclosure of agency records contained in such law, with respect to access to or disclosure of records or portions thereof. The commission also may request from any private organization providing services to immigrant day laborers information necessary to carry out the provisions of this chapter.

h. No later than nine months from the effective date of the local law that added this chapter, the Commission shall submit to the Mayor and the Speaker of the Council a report containing the findings and recommendations of the Commission.

HISTORICAL NOTE

Section added L.L. 91/2005 § 2, eff. Dec. 2, 2005. [See Chapter 8

footnote]

FOOTNOTES

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[Footnote 142]: * Chapter 8 added L.L. 91/2005 § 2, eff. Dec. 2, 2005. Note provisions of L.L. 91/2005: Section 1. Declaration of legislative intent. The Council finds that immigrant day laborers often work under dangerous conditions, without the benefit of proper training, equipment or safety precautions. An estimated 15,000 day laborers live and work in New York State, including between 5,800 and 8,300 in the greater metropolitan region, the vast majority of whom are believed to be immigrants. A recent survey of day laborers in New York City found that almost 85% of those surveyed have experienced some type of abuse in the industry: 50 percent experienced non-payment of wages, and 56 percent were paid less than the agreed upon wage. The informal congregation of day laborers on City streets while they wait for employment creates additional concerns regarding day labor employment.

In New York City, non-profit and community organizations have set up a handful of formally designated hiring sites, known as job centers, where day laborers and employers are able to connect under regulated conditions. These arrangements provide day laborers with viable and preferable alternatives to congregation on city streets, facilitate monitoring of health and safety conditions and improved enforcement of wage and hour laws, and create more systematic mechanisms for service providers to reach the day laborer community, which is otherwise transient and disorganized. The Council finds that job centers can improve the day labor industry through ensuring the use of contracts that clearly spell out agreed upon wages and dates of payment, assuring the availability of equipment essential for worker safety, gloves, and overalls, and by connecting employers with

workers who have appropriate skills. The Council further finds that job centers have proven to be successful models for addressing the issues and concerns regarding day labor employment.

. . . . . § 3. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which shall continue in full force and effect.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 21-901

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 9*143 CHILDREN'S SERVICES

§ 21-901 Definitions.

Whenever used in this chapter, the terms set forth below are defined as follows:

1. "ACS" means the administration for children's services, or any successor agency charged with operating the city's child welfare system.

2. "Case worker" means a diagnostic child protective specialist assigned to a zone.

3. "Commissioner" means the commissioner of ACS.

4. "Entry order" means an order entered pursuant to subdivision two of section ten hundred thirty-four of the family court act to enter specific premises where there is probable cause to believe an abused or neglected child may be found.

5. "IRT investigation" means an instant response team investigation conducted pursuant to the Administration for Children's Services and Law Enforcement Instant Response Teams Protocol dated February 1998 or any protocol hereafter promulgated that sets forth guidelines for the use of interdisciplinary instant response teams.

6. "Zone" means one of no fewer than 13 divisions of ACS child protective services headed by a deputy director who exercises oversight over the work of child protective managers, supervisors and child protective specialists in a specific geographic area, or the Office of Confidential Investigations.

HISTORICAL NOTE

Section added L.L. 20/2006 § 1, eff. June 19, 2006.

FOOTNOTES

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[Footnote 143]: * Chapter 9 added L.L. 20/2006 § 1, eff. June 19, 2006.

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NYC Administrative Code 21-902

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 9*143 CHILDREN'S SERVICES

§ 21-902 Quarterly Reports Regarding Child Welfare System.

Beginning no later than July 31, 2006 and no later than the last day of the month following each calendar quarter thereafter, ACS will furnish to the speaker of the city council a report regarding New York City's child welfare system that includes, at a minimum, the following information:

1. Child protective services. The following information regarding child protective services shall be included in the quarterly report, disaggregated by zone:

a. number of case workers employed and number of vacancies in case work staff at the end of the reporting period;

b. experience of case workers, broken down by years of experience in New York City's child welfare system as follows: 1-3 years of experience; 3-5 years of experience; 5-7 years of experience; 7-9 years of experience; 9 or more years of experience;

c. average caseload of case workers;

d. number of case workers with a caseload of more than 15 cases;

e. number of level one supervisors;

f. experience of level one supervisors, broken down by years of experience in New York City's child welfare system as follows: number with 1-5 years of experience; 5-10 years of experience; 10-15 years of experience; 15-20

years of experience; 20 or more years of experience;

g. number of level two supervisors;

h. experience of level two supervisors, broken down by years of experience in New York City's child welfare system as follows: number with 1-5 years of experience; 5-10 years of experience; 10-15 years of experience; 15-20 years of experience; 20 or more years of experience;

i. number of child protective managers;

j. experience of child protective managers, broken down by years of experience in New York City's child welfare system as follows: number with 1-5 years of experience; 5-10 years of experience; 10-15 years of experience; 15-20 years of experience; 20 or more years of experience;

k. number of reports of suspected child abuse or neglect referred to the zone for investigation, disaggregated by the type of case;

l. number of reports of suspected child abuse or neglect referred to the zone for investigation that were indicated during the reporting period, disaggregated by the type of case and whether the case was referred to preventive services, court mandated services, foster care placement or closed;

m. number of unfounded cases, disaggregated by whether or not the case was referred to preventive services;

n. number of investigations that resulted in closure without referral to preventive services, disaggregated by the type of case and whether the case was indicated or unfounded and the reason for closure;

o. number of reports of suspected child abuse or neglect referred to the zone that involved a family with respect to which ACS had received at least one prior report of suspected abuse or neglect within the past 24 months, disaggregated by the type of case;

p. number of reports of suspected child abuse or neglect referred to the zone that involved a family that had at least one child previously in the foster care system, disaggregated by the type of case; q. number of reports of suspected child abuse or neglect referred to protective services for which protective services conducted a 72-hour case conference, disaggregated by the type of case;

r. number of reports of suspected child abuse or neglect referred to protective services for which an elevated risk conference was held, disaggregated by the type of case;

s. number of IRT investigations commenced; and

t. number of entry orders sought and number of entry orders obtained.

2. Family Reunification. The following information regarding family reunification shall be provided in the quarterly report:

a. number of families reunited from foster care during the reporting period, disaggregated by zone and by length of stay in foster care in six month intervals;

b. of all families reunited during the reporting period, the number of families receiving aftercare services, disaggregated by zone and by the type of services being received; and

c. number of children who entered foster care during the reporting period who had been in the custody of the child welfare system within the thirty-six months immediately preceding the reporting period, disaggregated by zone.

3. ACS may use preliminary data to prepare the report required by this chapter to be delivered no later than July 31, 2006 and may include an acknowledgement that any preliminary data used in the report is non-final and subject to change.

HISTORICAL NOTE

Section added L.L. 20/2006 § 1, eff. June 19, 2006.

FOOTNOTES

143

[Footnote 143]: * Chapter 9 added L.L. 20/2006 § 1, eff. June 19, 2006.

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Administrative Code of the City of New York

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NYC Administrative Code 21-903

Administrative Code of the City of New York

Title 21 Social Services

CHAPTER 9*143 CHILDREN'S SERVICES

§ 21-903 Annual Reports.

Within 45 days after the end of each calendar year, ACS will publish and make available on its website an annual report compiling information provided in all quarterly reports required by this chapter for the prior calendar year.

HISTORICAL NOTE

Section added L.L. 20/2006 § 1, eff. June 19, 2006.

FOOTNOTES

143

[Footnote 143]: * Chapter 9 added L.L. 20/2006 § 1, eff. June 19, 2006.

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Administrative Code of the City of New York

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NYC Administrative Code 22-101

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-101 Definitions.

As used in this title, the following terms shall have the following meanings:

a. "Commissioner" shall mean the commissioner of the department of ports and trade.

b. "Department" shall mean the department of ports and trade.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 14/1989 § 15.

Section amended L.L. 37/1986 § 9.

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Administrative Code of the City of New York

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NYC Administrative Code 22-102

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-102 Secretary.

The commissioner shall appoint a secre- tary.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 702-1.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Secretary to the Commissioner of the Department of Marine and Aviation of New York City, **held** subject to dismissal at the pleasure of the Commissioner, the appointing officer, inasmuch as his position was actually that of private secretary and therefore he was not protected by Civil Service Law § 22, which protects tenure of veterans but specifically provides that it does not apply to the position of private secretary. The perfunctory duty of certifying instruments and regulations imposed on the petitioner by Charter § 712 and Administrative Code § 711-1.0, subd. b was but an insignificant part of petitioner's work.-Schwartz v. Bd. of Estimate, 203 Misc. 701, 118 N.Y.S. 2d 364 [1953], aff'd on ground petitioner was bound by the valid resignation which he tendered, and the Board of Estimate as a

matter of law had power, and as a matter of policy a very broad one, to withhold granting permission to withdraw the tendered resignation, 282 App. Div. 663, 122 N.Y.S. 2d 136 [1953]. See also, 306 N.Y. 756, 118 N.E. 2d 113 [1954].

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Administrative Code of the City of New York

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NYC Administrative Code 22-103

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-103 Grant of lands under water within the projected boundary lines of streets.

a. To the end that the city may make needful provisions for navigation, intercourse and commerce of the city and adequately to develop and secure the same there is hereby granted in fee to the city, in all the public streams, rivers, sounds, bays and waters of all descriptions at any and all places within the city or adjoining the limits of the city, all and singular the property, estate, right, title and interest of the people of the state of New York, in, to, of, and concerning such lands under water, as are embraced within the projected boundary lines of any street intersecting the shore line, and which street is in public use or which may be hereafter opened for public use entending from high-water mark out into such streams, rivers, sounds, bays and waters so far (and limits in existing grants to the contrary) as the city shall now or at any time hereafter in the opinion of the board of estimate or the commissioner of ports and trade require the same for ferries, public wharves, docks, piers, bulkheads, basins, slips or other public structures, adjuncts and facilities for navigation and commerce. This grant shall include the right to reclaim such lands from such waters, and also all riparian rights and all rents, issues and profit of the premises herein granted. The commissioner of the state department of general services, from time to time, shall convey or patent the lands therein granted to the city for such purposes as and whenever required by the commissioner of ports and trade.

b. Subdivision a of this section shall not impair or affect any existing valid private rights, or the existing riparian rights of owners of private property, or the lawful rights of private owners of docks, piers and other structures in the city or any part thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended L.L. 14/1989 § 16

DERIVATION

Formerly § 703-1.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 525

(formerly § 706-1.0)

Sub a amended LL 5/1986 § 16

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Administrative Code of the City of New York

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NYC Administrative Code 22-104

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-104 Lands under water not within the projected boundary lines of streets; patenting of.

a. Patents of land under water within the city shall be made only to the city or to the riparian proprietor. Where, pursuant to section seven hundred five of the charter or section 22-132 of this chapter, a plan or plans for the construction of docks between street intersections shall be projected, the commissioner of ports and trade, with the approval of the board of estimate, may make application to the commissioner of the state department of general services for a grant of lands under water for that purpose. Such state commissioner thereupon shall give notice to the riparian proprietor before taking action in the matter and shall then make such grant to the city for the purposes specified in section 22-103 of this subchapter. Such grant, however, shall be subject to all the rights of the riparian proprietor, and before the city shall construct such public wharves or other structures in front of the land of such riparian proprietor, the city shall make just compensation to such proprietor for the value of all the riparian rights.

b. Where application is made to the commissioner of the state department of general services by the riparian proprietor for a grant of soil or lands under water within the city, such state commissioner shall give notice thereof to the commissioner of ports and trade who shall examine into such application and certify to such state commissioner whether in his or her opinion the granting of the same will conflict with the rights of the city or be otherwise injurious to the public interests of the city. Such grant, if made, shall be confined to lands under water in front of such riparian proprietor and such state commissioner may insert such terms and conditions in the grant as are recommended by the commissioner of ports and trade and as will protect the public interests of the city in respect to navigation and commerce. The validity of any such grant or patent may be judicially determined in an action brought by and in the

name of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 14/1989 § 17

DERIVATION

Formerly § 703-2.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 526

(formerly § 706-2.0)

Sub a amended LL 54/1977 § 64

Subs a, b amended LL 5/1986 § 17

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Administrative Code of the City of New York

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NYC Administrative Code 22-105

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-105 Wharf property; proceedings to acquire.

a. The commissioner may agree with the owners of any wharf property, or uplands upon a price for the same and shall certify such agreement to the mayor. If the mayor approve such agreement, the commissioner shall take from the owners at such price, the necessary conveyances and covenants for vesting such wharf property or uplands in, and assuring the same to the city of New York forever, and such owner shall be paid such price by the city. If, however, the commissioner shall determine that the city should acquire such wharf property or uplands by condemnation, without first attempting to agree with the owners thereof for its purchase, the commissioner may, with the approval of the mayor direct the corporation counsel to take legal proceedings to acquire the same for the city. Thereupon, the corporation counsel shall take the same proceedings to acquire such wharf property or uplands as are provided for the taking of private property in the city for public streets or places, and the provisions of subchapter one of chapter three of title five of the code are hereby made applicable, as far as may be necessary, in any legal proceeding taken under this section. Before any such proceeding shall be instituted, a statement shall be furnished to the mayor of the valuation of the real property to be acquired as assessed for purposes of taxation. The title to such property shall vest in the city upon the date of the filing of the survey or map showing the real property to be acquired subdivided into parcels corresponding with the separate ownerships thereof in the office of the clerk of the county where such proceeding is pending; and all of the rights, title and interest of any and all of the owners or persons interested in such wharf property or uplands, shall cease and determine and be extinguished at such time. All the awards made in such proceedings for the value of property acquired or interests extinguished shall draw interest from the time of the vesting of the title in the city.

b. The commissioner, with the approval of the board of estimate, may agree, license and permit private owners of any wharf property, to make the necessary improvements upon their property, so as to conform to the water front plan during the period which shall intervene prior to the extinguishment of such private ownership by the city. Such improvements shall be made by such owners under the supervision of or by the commissioner, as may be agreed upon, at the cost and expense of such private owners, in the first instance, and upon such reasonable terms as to reimburse such private owners for such improvements, and as to wharfage and other riparian rights thereon and therefrom, as may be agreed upon.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 703-3.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 527

(formerly § 706-3.0)

Sub a amended chap 100/1963 § 527

CASE NOTES FROM FORMER SECTION

¶ 1. Provisions of Administrative Code § 706-3.0 relative to the title of wharf property vesting in the City upon date of filing of map showing the real property to be acquired, was construable as referring to a "damage map", and the form of the filed map was not important where the Board of Estimate clearly indicated what it had directed and the map as filed was sufficient notice as to what was being done. Hence motion by claimant to open final decree upon ground that during trial of the proceedings there was a mistake made with respect to filing of the map and that as a result claimant was deprived of an award for riparian rights, was denied.-In re City of N.Y. (East River Dr., E. 49th St. to E. 93rd St.), 104, (147) N.Y.L.J. (12-26-40) 2198, Col. 5 F.

¶ 2. Damage map attached to City's petition to acquire lands on the waterfront for improvement of the waterfront and harbor of the City sufficiently complied with Administrative Code § 706-3.0.-In re City of N.Y. (Southerly side of E. 30th St., &c.), 30 N.Y.S. 2d 187 [1941]. (2) Court was bound to accept the validity, insofar as it was what it purported to be, of a resolution of the City authorities reciting that the purpose of the proceeding was to acquire lands on the waterfront "for the uses of a marginal street, wharf or place and for no other purposes whatsoever". Motive of the City authorities might not be questioned on ground the property was to be used for purposes diverse to the resolution, and that the proceeding should therefore be considered as a condemnation one and not one to acquire a marginal street in the interest of commerce and navigation. Furthermore, the evidence showed that there was no basis in fact to sustain the contention.-Id.

¶ 3. In proceeding by City of New York to acquire lands on the waterfront between East 30th and East 49th Streets, East River, for uses of a marginal street, wharf or place, damages were required to be paid claimants who had water grants for their bulkhead rights and for whatever properties and property rights had been taken from them in the proceeding, where the grants had given to the claimants the rights of wharfage and craneage as well as the complete use of the properties subject only to restrictions contained therein, upon payment of substantial considerations. City had never asked the claimants to fill out to Avenue A, and such filling out in any event was impossible since the government had put through a pierhead and bulkhead lines.-Id.

¶ 4. The City of New York in a proceeding to condemn a strip of land between plaintiff's land and the East River proceeded under § 706 of the Charter and § 706-3.0 of the Administrative Code, relating to acquisition of land for

wharf purposes and the improvement of waterfront, instead of under § H41-10.0 of the Code, prescribing steps to be taken in connection with construction of the East River Drive. The plaintiff's contention that it was entitled to an injunction restraining prosecution of the condemnation proceeding on the basis that the condemnation proceeding should have been brought under § H41-10.0 was without basis since the condemnation court might consider all matters relevant to the question of whether the plaintiff's property, including its riparian and wharfage rights, were being taken or interfered with, even though the taking was said to be an improvement of the waterfront, and an element to be considered in determining such question was the effect of § H41-10.0.-Vanneck Realty Corp. v. City of N.Y., 259 App. Div. 461, 19 N.Y.S. 2d 544 [1940], affirmed, 284 N.Y. 403, 31 N.E. 2d 505 [1940].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-106

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-106 Wharf property; acquisition; public hearing required.

The mayor, prior to approving or authorizing the acquisition of wharf property or uplands, or directing the vesting in the city of any title thereto, may hold a public hearing and shall refer any such proposed acquisition to the appropriate agency pursuant to the provisions of chapter eight of the charter. Public notice of any hearing held by the mayor shall be given by publication for six consecutive days in the City Record, not less than seven, nor more than thirty days before such public hearing. Such publication shall contain in addition to such information as the commissioner may deem proper, a description of the property to be affected by the order to acquire such property, a statement by the mayor of the date, time and place of such public hearing, and an abstract of the recommendation of the commissioner in relation to such vesting of title.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 703-4.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 528

(formerly § 706-4.0)

Amended LL 54/1977 § 65

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-107

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-107 Fixing the high water line.

a. The commissioner, by agreement with the upland owner, may fix, determine upon and establish the line of high water in front of the property of such upland owner upon such line or lines as the commissioner shall deem best adapted to the improvement of the water front.

b. Such agreement may provide for the sale and conveyance to the upland owner of lands under water inside of such line, and for the purchase from such upland owner of lands outside of such line, or for the exchange of lands under water inside of such line for lands outside of such line. Such agreement for sale and conveyance, together with a map showing the lines so fixed, determined upon and established shall be transmitted to the department of city planning pursuant to the provisions of sections one hundred ninety-seven-c and one hundred ninety-nine of the charter. If such agreement involves the purchase or acquisition of such lands, the agreement, together with a map showing the lines so fixed, determined upon and established shall be transmitted to the mayor. Upon approval by the board of estimate of such agreement for sale and conveyance and upon approval of such agreement for purchase or acquisition by the board of estimate and by the mayor such sale and conveyance shall be made upon such terms and conditions as the board shall deem proper, and such purchase or exchange shall be made upon such terms and conditions as the board and the mayor shall deem proper.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 703a-1.0 added chap 929/1937 § 1

Sub b amended chap 100/1963 § 521

Sub b amended LL 54/1977 § 66

CASE NOTES FROM FORMER SECTION

¶ 1. Evidence **held** to establish that the mean high water line at the locus in quo was the line which had for years been accepted by the City, and not the line fixed by the federal government, and hence to establish claim of petitioner to ownership of certain upland, thus entitling it to riparian rights and privilege of erecting a pier.-Matter of Del Balso Bldg. Corp. (McKenzie, comm'r &c.), 167 Misc. 498, 5 N.Y.S. 2d 790 [1937].

¶ 2. High water line of Westchester creek **held** correctly shown by the Dock Department's map of 1897, inasmuch as a presumption of correctness attaches to the map, and the testimony of lay witnesses and the evidence of certain deeds introduced and a map of the Topographical Bureau of the Borough President's Office were insufficient to overcome such presumption of correctness.-In re City of N.Y. (Brush Ave., E. 177th St. to Schley Ave., Bronx), 109 (113) N.Y.L.J. (5-15-43) 1911, Col. 7 T.

¶ 3. In condemnation proceeding by City of New York involving the location of the mean high water line touching claimant's lands on the date of vesting of title in City, the line was fixed in conformity with the line known as the Dock Department line of 1896.-Matter of City of N.Y. (Lafayette Ave., Metcalf Ave., Bronx River), 99 (92) N.Y.L.J. (4-21-38) 1927, Col. 5 F, at 6 F.

¶ 4. Judgment in prior action to which the City of New York was a party and wherein a determination of the high water line along Sherman Creek was material to the case and was litigated and a finding made, **held** res judicata as to the location of such high water line in subsequent condemnation proceeding by the City, notwithstanding the City had not offered proof by maps or otherwise to show a different high water line, since such testimony might have been presented by the City.-In re City of N.Y. (Academy St. & Harlem River Dr., at Sherman Creek), 101 (16) N.Y.L.J. (1-20-39) 304, Col. 6 F.

¶ 5. Arbitrary agreement of three different surveyors as to location of the high water line, supported merely by fact that there was an alleged outcropping of rock at one point, was insufficient to warrant the upsetting of the so-called "Randel" high water line, which had been approved and followed since 1820.-In re East River Drive (E. 49th St. to E. 93rd St.), 103 (62) N.Y.L.J. (3-15-40) 1195, Col. 5 M.

¶ 6. Mere outcropping of rock would not necessarily change the high water line, particularly where the line as presently constituted had existed and been acted upon for over a century.-In re City of N.Y. (East River Drive; E. 49th St. to E. 93rd St.), 103 (102) N.Y.L.J. (5-1-40) 1979, Col. 5 F.

¶ 7. Although in the absence of other evidence the Dock Department map of 1895 might control as to the high water line of Westchester Creek by reason of the presumption of correctness attaching to it, the Dock Department line no longer controlled where the claimants' uncontradicted proof had not been impeached. In the immediate case, cumulative evidence of the findings of the surveyors in the Borough President's office in Bronx County, together with the result of the work of the United States engineers and the other evidence in the case, **held** to show that true line of mean high water was outshore of the damage parcels.-In re City of N.Y. (Brush Ave.), 112 (9) N.Y.L.J. (7-12-44) 71, Col. 3 F.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-108

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-108 Sinking ships; placing at wharf property prohibited.

It shall be unlawful to place any vessel, craft or structure which is sinking or is in such condition that there is danger of it sinking or stranding, at any wharf property. Violation of this section shall be a misdemeanor punishable by a fine of not more than five hundred dollars and not less than ten dollars, or by imprisonment for not more than six months and not less than ten days, or by both, on complaint of the commissioner. One-half of any such fine shall be paid to the person or persons giving information which shall lead to the conviction of any person violating this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-109

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-109 Removal of trucks, merchandise and vessels.

Where any wharf property or marginal street shall be encumbered or obstructed in its free use or navigation by merchandise or material not affixed to such wharf property or marginal street, or by an automobile, wagon, truck or cart, or by any floating, stranded or sunken vessel or craft, and the owner, consignee or person in charge thereof shall fail to remove the same when directed by an order issued by the commissioner, pursuant to section seven hundred four of the charter, the commissioner may employ such labor and equipment as may be necessary to carry out such order. The commissioner may store such merchandise, material, automobile, wagon, truck, cart, vessel or craft in a warehouse or other suitable place at the expense of the owner. Such owner, consignee or person in charge of the merchandise, material, automobile, wagon, truck, cart, vessel or craft so removed or stored may redeem the same upon payment to the commissioner of the amount of all expenses actually and necessarily incurred in effecting such removal, together with any charges for storage. The commissioner shall be deemed a creditor of such owner, consignee or person in charge and each of them for the amount of the expenses so incurred and the commissioner may maintain an action against them, or any of them, to recover the same.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704-2.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-110

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-110 Sale of unclaimed trucks, merchandise and vessels.

Whenever such merchandise, material, automobile, wagon, truck, cart, vessel or craft shall remain unclaimed for thirty days after service of such order on such owner, consignee or person, the commissioner may then sell the same at pubic auction to the highest bidder, after advertisement for one week in the City Record.

The commissioner shall deduct the expenses which have been incurred from the proceeds of such sale and shall hold the remainder of such proceeds in trust for such owner, consignee or person for twelve months. If such remainder is then unclaimed, it shall be paid into the general fund. Any excess of expenses which have been incurred in the removal, storage, advertisement and sale of such merchandise, material, automobile, wagon, truck, cart, vessel or craft over such proceeds of sale shall be recoverable from such owner or owners of the same in an action maintained by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704-3.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-111

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-111 Destruction of unclaimed trucks, merchandise and vessels.

If no bids are received at the public sale authorized in section 22-110 of this subchapter, the commissioner may remove, destroy and break up or otherwise dispose of such merchandise, material, automobile, wagon, truck, cart, vessel or craft without liability for damage to the owners of or to any person having or claiming any interest in the same. The expense of such removal, advertisement, sale, destruction and disposal shall be recoverable from such owner, owners or persons in an action maintained by the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704-4.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-112

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-112 Navigable waters; fouling; obstructing.

a. It shall be unlawful:

1. To place, discharge or deposit, by any process or in any manner, offal, piles, lumber, timber, driftwood, dirt, ashes, cinders, mud, sand, dredging, sludge, acid, or any other refuse matters floatable or otherwise in the port of New York, except under the supervision of the United States supervisor of the harbor.

2. To discharge or cause or permit to be discharged into the port of New York, from any ship, steamer or other vessel, any oil, oil refuse, or other inflammable matter.

b. Any person violating any provision of this section shall be guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than two hundred fifty dollars nor less than five dollars, or imprisonment for not more than six months nor less than ten days, one-half of such fine to be paid to the person giving information which shall lead to the conviction of the offender.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704-5.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-113

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-113 Assignment of berths for vessels.

a. Applications for berths shall be filed as the commissioner shall direct and shall be considered in the order of receipt. The commissioner shall have power:

1. To provide and assign suitable accommodations for all ships and vessels, and to regulate them in the berths they are to occupy at wharf property;

2. To remove from time to time such vessels not employed in receiving or discharging cargoes, to make room for such others as require to be more immediately accommodated for that purpose;

3. To determine as to the fact of such vessels being, fairly and in good faith, employed in receiving and discharging cargoes;

4. To determine how far and in what instance the master, and others having charge of ships and vessels, shall accommodate each other in their respective situations.

b. Any master or other person, having charge of any vessel, canal boat, barge or lighter, who shall refuse or neglect to move the same when ordered to do so by the commissioner or other proper officer of the department, or who shall resist or forcibly oppose such commissioner or officer in the discharge of his or her duties, for every such offense,

shall forfeit and pay the sum of fifty dollars, to be recovered with costs by and in the name of the department of ports and trade.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended by L.L. 14/1989 § 18

DERIVATION

Formerly § 704a-1.0 added chap 929/1937 § 1

Sub b amended chap 100/1963 § 522

Sub b amended LL 5/1986 § 18

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-114

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-114 Erection of sheds and warehouses.

The commissioner with the approval of the board of estimate may erect and maintain within the lines of and upon any marginal street, sheds, warehouses, coal pockets and other buildings and structures devoted to commercial uses in connection with the adjacent piers and bulkheads. The commissioner with the approval of the board of estimate may authorize the lessee of any marginal street to erect and maintain upon the premises so demised sheds, warehouses, coal pockets or other buildings or structures devoted to commercial uses in connection with the adjacent piers and bulkheads.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704b-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-115

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-115 Removal of sweepings, ashes and garbage.

The commissioner shall dispose of all sweepings, ashes and garbage removed by him or her in cleaning wharf property pursuant to subdivision b of section seven hundred four of the charter. For that purpose the commissioner may use concurrently with the department of sanitation, such dumping boards, slips and piers as may be assigned to and set apart for the use of such department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704b-2.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-116

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-116 Improvement of water front property; permit required.

A written permit shall be obtained from the commissioner before any building, platform, sign, advertising device or any construction or obstacle of any kind be placed or maintained, on water front property owned by the city and under the charge and control of the department. Such a permit shall also be required for erection of such structures or the placing and maintenance of such devices on any other water front property when used in conjunction with and in furtherance of water front commerce and/or navigation. Such a permit shall also be required before any piles shall be driven, or any filling-in or construction, repairs, alterations, removal, dredging or demolitions of any kind be made on any part of the water front, except as may be otherwise provided by the charter or code of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-1.0 added chap 929/1937 § 1

Amended LL 71/1962 § 11

CASE NOTES FROM FORMER SECTION

¶ 1. Application to compel Commissioner of Docks to issue permit for building of pile foundation for coal pocket on property owned by petitioners along the Harlem River was denied where there was pending before the Board of Estimate a plan for construction of a highway along the river and through petitioner's property, application had been made to federal government for approval of the location of a new bulkhead line, and City expected to vest title within short time after approval of the plan.-Matter of Harjes (McKenzie), 99 (140) N.Y.L.J. (6-17-38) 2932, Col. 7 F, aff'd without opinion, 9 N.Y.S. 2d 401 [1939].

¶ 2. Petitioners who sought to compel the Dock Department to issue permit for erection of a coal pocket and other appurtenances on property owned by them along the Harlem River, **held** entitled to a trial in the alternative, where the Dock Department contended the erection contemplated was founded on bad faith and with knowledge of pending project for construction of a highway along the river and through petitioner's property. However, denial of a similar application in 1938 on ground the erection would interfere with the plans for the highway was not res judicata because of the lapse of time without any improvement.-In re Harjes (McKenzie), 103 (118) N.Y.L.J. (5-20-40) 2294, Col. 6 T.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-117

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-117 Unauthorized construction and maintenance of structures on water front property; penalty.

Any owner, lessee, occupant or agent of any water front property who shall place or permit the erection, placing or maintaining of any structure referred to in section 22-116 of this subchapter without a permit as required by such section, shall forfeit and pay a penalty of one hundred dollars, in addition to all damages resulting therefrom. There shall be a further penalty of twenty-five dollars a day for each and every day such structure shall be maintained after the expiration of the time specified for the removal thereof in any notice served upon such owner, lessee or occupant or agent.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-2.0 added chap 929/1937 § 1

Amended LL 71/1962 § 12

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-118

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-118 Construction of sheds; regulation by commissioner.

a. Whenever any person, shall be owner or lessee of any water front property, wharf, pier, dock or bulkhead, and shall use it for the purpose of regularly receiving and discharging cargo such owner or lessee, with the consent of the lessor, may erect and maintain thereon, sheds for the protection of property so received or discharged, provided they shall have obtained from the commissioner, license or authority to erect or maintain the same, subject to the conditions and restrictions contained in such license or authority. Such license or authority, after it has been granted and has been acted upon, shall not be revoked by such commissioner without the consent in writing of the mayor and the board of estimate. Notice shall be given to all parties having any interest therein of a hearing before the board of estimate to consider the application of the commissioner for the revocation of such license or authority. Such notice shall be given by publication thereof for six consecutive days in the City Record, not less than ten nor more than thirty days before such hearing, and by posting, not less than ten nor more than thirty days before such hearing, copies of such notice, in the form of handbills, upon the shed or sheds erected or maintained pursuant to such license or authority, or upon the water front property, wharf, pier, dock or bulkhead upon which such shed or sheds shall have been erected or maintained. Such sheds hereafter shall be constructed subject to the regulations and under the authority of the commissioner. The commissioner may build and maintain such sheds on any water front property, wharf, pier, dock or bulkhead owned by the city and under the charge and control of the department, and may lease the same; and any lessee thereof shall have all the rights and privileges above granted.

b. Nothing in subdivision a of this section shall be construed to authorize the erection or maintenance on any

pier of any storehouse, booths, shops or other structures than the sheds mentioned with the proper doors and gates appertaining thereto. The commissioner may grant a permit or license, however, upon such terms and conditions as he or she may deem proper to the lessee of piers twelve, thirteen, fifteen, and sixteen owned by the city in the borough of Staten Island, to maintain a place for the keeping and care of goods, merchandise and materials discharged from vessels, upon any floor of any such pier.

c. Nothing contained in subdivision b of this section shall be construed as interfering in any respect with the government or regulation of the Staten Island free port.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-3.0 added chap 929/1937 § 1

Sub c amended LL 50/1942 § 124

Sub a amended LL 71/1962 § 13

CASE NOTES FROM FORMER SECTION

¶ 1. In an action by a taxpayer to declare a contract between the city and a domestic corporation to operate a Foreign Trade Zone on Staten Island null and void it was held that the inclusion in the table of repealed laws to the Administrative Code of Law of 1935, ch. 26 was inadvertent and furthermore this section specifically referred to the continuing operation of the zone and hence the Legislature would not be deemed to have intended an absurd result such as would result from a construction of this section as meaningless.-American Dock Co. v. City of N.Y., 174 Misc. 813, 21 N.Y.S. 2d 943 [1940], aff'd without opinion to extent appealed from, 261 App. Div. 1036, 26 N.Y.S. 2d 764 [1941], aff'd, 286 N.Y. 658, 36 N.E. 2d 696 [1941].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-119

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-119 Commissioner may repair certain structures on privately-owned water front property and deepen adjoining water.

a. Where the owner of any privately-owned water front property, wharf, pier, dock or bulkhead, the structures wholly or partly thereon or such other structures used on such water front property in conjunction with and in furtherance of water front commerce and/or navigation fails to comply with an order of the commissioner, made pursuant to section seven hundred four of the charter, directing that repairs be made to such structures for the purpose of keeping them in a proper condition for use, or fails to comply with an order made pursuant to such section directing that the water near or adjoining any privately-owned water front property be deepened by excavating or removing the earth, mud, dirt or sand therefrom in such places and at such times as the commissioner may determine, such commissioner may himself or herself perform any or all of such work.

b. The expense incurred by such deepening or repairs shall be a lien or charge upon the property or premises benefited.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-4.0 added chap 929/1937 § 1

Title, sub a amended LL 71/1962 § 14

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-120

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-120 Commissioner may remove abandoned wharf structures.

a. Whenever any pier, bulkhead, platform or other wharf structure shall be abandoned and constitute an obstruction to navigation, the commissioner shall notify the owner of such property, if known to him or her, to remove the same forthwith. If the owner is unknown, or is not within the city, or shall fail to comply with such notice, the commissioner shall cause such obstruction to be removed. The expense of such removal shall be recoverable by action from the owner and shall be a lien on the property so removed until paid.

b. If such property is unclaimed within thirty days after removal, the commissioner shall advertise the same for sale, at public auction to the highest bidder, in the City Record for six days. The proceeds of each such sale shall be paid into the general fund.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-5.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-121

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-121 Maintenance of a drift- and debris-free harbor.

a. As used in this section the following terms shall have the following meanings:

1. "Debris" means any substance or material, whether on land or water, which is capable of becoming drift.

2. "Drift" means any substance or material, floatable or otherwise, which may cause damage to any vessel or craft or which may otherwise obstruct, impede or endanger the navigable capacity of the navigable waters of the city or cause any other condition hazardous to the life or safety of persons using such waters, including but not limited to piles, lumber, timber, driftwood, dirt, ashes, cinders, mud, sand, dredged materials, or refuse of any kind.

3. "Navigable waters" means the waterways which are capable of carrying commerce, and the tributaries thereto, within the geographical limits of the city.

4. "Owner" means a person having title to any premises or structure; a tenant, lessee or occupant; a mortgagee or vendee in possession; a trustee in bankruptcy; a receiver or any other person having legal ownership or control of any premises or structure.

5. "Premises" means any land or land under water and improvements or appurtenances or any part thereof including but not limited to any structure.

6. "Structure" means anything built or constructed including but not limited to a building, wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, derelict vessel, ship, barge, raft or floating craft of any kind.

b. Whenever the commissioner determines that material of any kind placed or deposited on any premises located on or along the shores or banks of any navigable water may be or become a source of drift or debris liable to be washed into such navigable water by any cause whatsoever or that because of the deteriorated or deteriorating condition of any premises or structure located on or along the banks or shores of any navigable water such premises or structure may be or become a source of drift or debris liable to be washed into such water by any cause whatsoever and thereby cause damage to vessels or craft or otherwise obstruct, impede or endanger the navigable capacity of such water or cause any other condition hazardous to the life or safety of persons using such water, the commissioner may declare the same to be a public nuisance and order the owner of such premises or structure to remove, repair, reconstruct, alter or abate it as such order shall specify. It shall be the duty of an owner upon whom such an order has been served to remove, repair, reconstruct, alter or abate such public nuisance in the manner and in the time provided by such order.

c. 1. An order of the commissioner issued pursuant to subdivision b of this section shall specify the work to be performed and shall fix a reasonable time for compliance but not less than thirty days from the date of service of such order. Such order shall contain a statement that upon the failure of the owner to comply with the commissioner's order within the stated time, the department may perform the work specified in the order or apply for a court order directing the owner to comply with the commissioner's order or directing the department to perform the work specified in the commissioner's order. Such statement shall also indicate that if the department performs any of the work specified in the commissioner's order, the expense incurred by the department in performing such work shall be a debt recoverable from the owner and a lien on the premises with respect to which such order was issued.

2. Service of such order shall be made upon the owner personally or by certified mail addressed to the last known address of such person or in any manner provided for service of process by article three of the civil practice law and rules. The commisssioner may serve a copy of such order on any mortgagee or lienor of record in the same manner.

3. A copy of such order shall be filed with the office of the register in the county in which the premises with respect to which such order was issued are situated.

4. Within thirty days after service of such order upon an owner, such owner or a mortgagee or lienor upon whom a copy of such order has been served may request a hearing. At such hearing such person shall be entitled to be represented by counsel and to present evidence. The commissioner may affirm, modify or revoke the order.

d. If the owner fails to comply with the commissioner's order within the time fixed for compliance pursuant to subdivision c of this section, the department may perform the work specified in the order.

e. As an alternative to the remedy set forth in subdivision d of this section, if an owner fails to comply with the commissioner's order within the time fixed for compliance pursuant to subdivision c of this section, the commissioner may apply to any court of competent jurisdiction, upon such notice and in such manner as the court shall direct, for an order directing the owner to comply with the commissioner's order or directing the department to perform the work specified in the commissioner's order.

f. The procedures set forth in subdivisions c, d and e shall not apply to the abatement of a nuisance with respect to any structure not affixed to real property, including but not limited to any derelict vessel, ship, barge, raft or floating craft of any kind. The commissioner shall provide for the abatement of a nuisance with respect to such structures pursuant to the procedures set forth in sections 22-109, 22-110 and 22-111 of this subchapter.

g. 1. The expense of the department with respect to any work performed by or on behalf of the department pursuant to subdivisions d and e of this section shall be a debt recoverable from the owner and a lien upon the premises with respect to which such work was performed.

2. The department shall keep a record of all work performed by or on behalf of the department. Such records shall be accessible to the public during business hours. Within thirty days after the issuance of a purchase or work order for such work, such order shall be entered on the records of the department. Such entry shall constitute notice to all parties.

3. All such expenses shall constitute a lien upon the premises when the amount thereof shall have been definitely computed as a statement of account by the department and the department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have a priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this section shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless such transaction occurred after the date of entry of a purchase or work order on the records of the department pursuant to paragraph two of this subdivision.

4. A notice thereof stating the amount due and the nature of the charge shall be mailed by the city collector within five days after such entry to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent. Such notice shall have stamped or printed thereon a reference to this section.

5. If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property to be calculated to the date of payment from the date of entry.

6. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such charge and interest may be collected and the lien thereof may be foreclosed in the manner provided by law for the collection and foreclosure of taxes, sewer rents, sewer surcharges and water charges due and payable to the city and the provisions of chapter four of title eleven of the code shall apply to such charges and the interest thereon and the lien thereof.

7. (1) In any proceedings to enforce or discharge the lien, the validity of the lien shall not be subject to challenge based on (i) the lawfulness of the work done; or (ii) the propriety and accuracy of the items of expenses for which a lien is claimed, except as provided in this paragraph.

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

(3) An issue specified in subparagraph one which was decided or could have been contested in a prior court proceeding to secure a court order pursuant to subdivision e of this section shall not be open to reexamination, but if any mortgagee or lienor of record was not served with an order of the commissioner pursuant to paragraph two of subdivision c and with notice of such proceeding, his or her mortgage or lien shall have the same priority over the lien of the department that it would have had but for the provisions of this section.

8. In addition to establishing a lien, the department may recover such expenses and interest by bringing an action against the owner. The institution of such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such debt.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. g par 5 amended L.L. 62/2005 § 13, eff. June 6, 2005.

DERIVATION

Formerly § 704c-5.1 added LL 13/1983 § 2

(legislative findings, waterway debris obstructs and damages, LL 13/1983 § 1)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-122

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-122 Floating drydocks lawful.

It shall be lawful for floating drydocks to be used, with the consent of the owners of the wharf property, occupied for such use, or of the persons entitled to collect wharfage thereon, for the purpose of taking up ships or vessels for repair, coppering or finishing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704c-6.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-123

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-123 Asphalt pavement on marginal streets; applications to open.

Applications to open asphalt pavement under the control of the commissioner must be made to the commissioner and shall be subject to such rules and regulations as he or she shall establish pursuant to section seven hundred four of the charter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 704d-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-124

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-124 Covenants to maintain marginal streets; water front covenants generally; release of.

a. The owner of any lands in the city of New York formerly under water but now filled in and having streets physically laid out thereover or adjacent thereto, heretofore granted by the mayor, aldermen and commonalty of the city of New York, or by the city of New York, by a grant containing covenants or conditions requiring the maintenance of such streets, and otherwise, may file with the secretary of the board of estimate an application in writing for a release from such covenants and conditions setting forth a description of such lands, the ownership thereof, the number of feet fronting on the street and the width of such street together with a statement enumerating all of such convenants and conditions relating to such lands. Such application shall contain a statement that all covenants and conditions contained in such grant have been complied with except the covenant or condition for future maintenance of such street. Such secretary, upon payment by the applicant of a fee of fifty dollars to cover the expenses incident to investigating the truth of the statements contained in such application, shall make due inquiry and, if such statements are in fact true, shall present to such board a report and certificate as to the authenticity of the facts set forth in such application. Such board may thereafter adopt a resolution approving of the report of such secretary. If such report is approved by such board, such owner may obtain from the comptroller a release of all covenants and conditions contained in such grant insofar as such convenants and conditions affect the lands of the applicant, upon payment to the commissioner of finance of a sum equal to twenty dollars per front foot of such property based on a street sixty feet in width, or of a proportional sum based on streets having a greater or less width, and upon receipt of such sum, such comptroller for and on behalf of the city, shall issue to such owner a certificate evidencing such release, the same to be in form for recording. Such

certificate shall be approved as to form by the corporation counsel and may be recorded in the same manner and in the same recording office as a deed of real property. After such release, with respect to any parcel, such city shall keep in repair or cause to be kept in repair the roadway portion of such street on which the parcel abuts.

b. In the event that any such convenants or conditions, other than those requiring the maintenance of streets, have not been performed in whole or in part, a special application for a release from such covenants or conditions, on a form to be prescribed by the board of estimate, may be made by such owner to such board. Such application shall set forth a description of such land by metes and bounds, or by street and number, the dimensions of such land, a statement enumerating all the covenants and conditions relating to such land, or, in lieu thereof, a copy of the grant of such land, or other instrument, containing all such covenants and conditions and a statement of the particular covenants or conditions, specifying them, for the release from which the application is made, and such other information as such board may deem necessary or appropriate. Such board, upon payment of a fee of fifty dollars, shall cause an investigation to be made concerning the statement contained in such application. If satisfied from such investigation that the interests of the city will not be prejudiced thereby, such board, by resolution may authorize the comptroller to issue to such owner a release from such covenants and conditions for a sum of money to be agreed upon by and between such board and such owner. Upon receipt of such sum, such comptroller shall, for and on behalf of the city, issue to such owner a certificate evidencing such release. Such certificate shall be approved as to form by the corporation counsel and may be recorded in the office of the commissioner of transportation and in the same manner and in the same recording office as a deed of real property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 705-1.0 added chap 929/1937 § 1

Amended chap 100/1963 § 524

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Administrative Code of the City of New York

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NYC Administrative Code 22-125

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-125 Wharf property; lease; period.

Any lease of wharf property belonging to the city shall be for a term not exceeding fifty years, and may include covenants for renewal or renewals at advanced rents of such lease for terms not exceeding ten years each but not exceeding in the aggregate ninety-nine years.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 707-2.0 added chap 929/1937 § 1

Amended LL 49/1956 § 1

Amended LL 44/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-126

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-126 Recreation piers.

The commissioner may designate and set aside, as wholly free to the inhabitants of the city, the upper story of certain piers for the purpose of affording such inhabitants opportunity for healthful recreation. The commissioner may construct or rebuild such piers so as to provide such upper story or platform and approaches thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 708a-1.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 530

(formerly § 708a-2.0)

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Administrative Code of the City of New York

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NYC Administrative Code 22-127

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-127 Application of private wharf property to a particular use.

The commissioner may designate any wharf property which the owners thereof may apply to have set apart for the sole use of special kinds of commerce, or of steamboats, or of any other class or description of ships, or vessels, and may prohibit any ship, steamboat, or any other vessel or water craft whatever from entering or lying, mooring or anchoring at or within any such wharf property, except such as may be designated for their use.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 708a-2.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 530

(formerly § 708a-3.0)

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Administrative Code of the City of New York

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NYC Administrative Code 22-128

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-128 Leasing of wharf property set aside for general and special purposes; contents of publication prior to public hearing.

Publication of notice of a public hearing to lease wharf property described in subdivision a of section seven hundred four of the charter, in addition to such information as the commissioner may deem proper, shall contain the following:

1. The name and address, by street and number, of the proposed lessees.

2. A description of the property.

3. The proposed rental.

4. The proposed terms.

5. Whether the lessee is to have any special privilege under the lease, such as to erect and maintain a shed, ice bridge, or any privilege other than the right to collect cranage and wharfage.

6. A statement by the board of estimate of the date, time and place of such public hearing.

7. A copy of the recommendation of the commissioner to such board in relation to the proposed lease. Such

proposed lease shall be open to inspection by any citizen at the office of the board of estimate at all times during business hours from the beginning of publication until the day of such hearing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 708b-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 22-129

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-129 Rates to be printed in wharfage bills.

a. All persons owning or having charge of any wharf property shall cause to be printed on the back of all bills presented by them for wharfage, cranage and dockage the provisions of subdivision j of section seven hundred four of the charter and the schedule of rates fixed pursuant thereto.

b. The owner, consignee, or person in charge of any vessel may refuse to pay the wharfage, cranage or dockage due on such vessel unless, upon his or her demand, a bill is presented to him or her printed in conformity with this section. Any person, owning or having charge of any wharf property who shall receive for wharfage, cranage or dockage any rates in excess of those authorized in such schedule of rates shall forfeit to the party aggrieved treble the amount so charged as damages, to be sued for and recovered by the party aggrieved.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 709b-1.0 added chap 929/1937 § 1

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NYC Administrative Code 22-130

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 1 WATERFRONT PROPERTY

§ 22-130 Seal; description; legal effect.

a. The commissioner may direct the use of the seal of the department. Such seal shall be a device of the arms of the city of New York surrounded by the words, "Department of Ports and Trade. The City of New York," engraved upon a metal disc two and one-quarter inches in diameter, and the same may be renewed whenever necessary. An impression of such seal made directly on paper shall be as valid as if made on a wafer or on wax.

b. Every lease, contract or other instrument, executed in pursuance of authority conferred on such commissioner by law, and sealed with such seal, attested and proved according to law by the secretary appointed by such commissioner, shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the like effect as if sealed with the seal of the corporation of the city of New York, attested and approved by the clerk thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended L.L. 14/1989 § 19

DERIVATION

Formerly § 711-1.0 added chap 929/1937 § 1

Sub a amended LL 31/1942 § 5

Sub a amended LL 5/1986 § 19

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NYC Administrative Code 22-131

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-131 Definitions.

As used in this subchapter the following words shall mean:

1. "Marginal wharf": The area extending inshore from the bulkhead line shown on any plan for the improvement of the water front adopted pursuant to law and constructed in accordance with such plan.

2. "Terminal basin": All basins, harbors, graving or loading docks that may be provided by the inclosure, natural or artificial, of water for the flotation, protection or handling of shipping or freight, or for transport service of any class.

3. "Terminal ways": A way or ways constructed or operated for the transportation of freight to, from, across or along any wharf property, or canal of or in the city or any extension or extensions, branch or branches, approach or approaches, siding or sidings, bridge or bridges thereof or therefor, upon, lying upon, above or below any street, avenue, road, highway, park or parkway, bridge, viaduct or public place or slip, canal or waterway, public or private, wharf property, lands and lands under water of or in the city, including all equipment and terminal facilities, of every kind used or operated in connection with any such way so constructed or operated.

4. "Terminal stations": A building or buildings, structure or structures erected or acquired, occupied or used in connection with terminal ways for the receipt, handling, delivery or shipment of freight, including terminal stores and appurtenances and appliances necessary for the operation thereof, whether such buildings and other structures or

portions thereof are used exclusively for terminal stations or terminal stores or in part for warehousing, manufacturing or other purposes.

5. "Terminal stores": A building or buildings or space for the temporary storage of freight while in the process of delivery, shipment or transport or for use for general warehouse purposes.

6. "Terminal factories": The space used for manufacture and for the storage incidental thereto of materials, supplies and products together with such power, light, machinery, and other facilities therefor as may be supplied in connection therewith.

7. "Terminal facilities": Any and all terminal way or ways, terminal station or stations, marginal wharf, terminal basin or basins, terminal store or stores, wharf property, and transportation of property thereon, thereby, thereto or therefrom by this subchapter provided for or mentioned and equipment thereof and therefor.

8. "Equipment": Elevators, conveyors and conveying apparatus, hoists, shutes, float bridges, transfer bridges and appliances for lighting, heating, or refrigerating, roadbed, tracks, switches, crossovers, spurs, signals, telphers, cars, motors, engines and rolling stock of all descriptions; tugs, floats and lighters; power plant, substations and transformers, appliances for transmission of power by third rail, overhead wires or other means; telephone and telegraph wires and other means of communication; together with all appurtenances and appliances appertaining thereto, connected therewith or used in the operation thereof.

9. "Street": Includes avenue, road, alley, lane, highway, viaduct, bridge, tunnel, subway, park, parkway, and every class of public road, square and place, except marginal wharf.

10. "Transportation": Includes any service in connection with the receipt, delivery, carriage, elevation, transfer in transit, sorting and handling of the property transported, or the handling of goods on or in terminal basins, terminal ways, terminal stations, terminal stores or wharf property by mechanical appliances or other means.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-1.0 added chap 929/1937 § 1

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NYC Administrative Code 22-132

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-132 Plans.

a. The commissioner, when directed by the board of estimate, or when the commissioner deems it to be for the interest of the city, shall prepare plans for terminal facilities, which shall consist of:

1. A map or maps showing the area to be included in such terminal, together with the location of any buildings, railroad tracks, wharves, piers, bulkheads and other structures which are to form a part thereof;

2. A description, by metes and bounds, of all property which it is proposed to acquire by purchase or otherwise as a part of such terminal facilities.

b. Such plans, or any modification or addition thereto shall be submitted to the board of estimate and when adopted pursuant to and in accordance with section one hundred ninety-nine of the charter, and filed in the office of the commissioner, shall be the exclusive plans according to which any terminal facilities, wharf property, or other property required for such terminal facilities, shall be laid out or constructed by the city, its agents or contractors.

c. Whenever such plans shall include the narrowing or widening of a street or the opening and construction of a new street or the abandonment of a street already in existence, the power to narrow, widen, open, construct, abandon or close the same, or to cause the same to be narrowed, widened, opened, constructed, abandoned or closed, shall be exercised by the board of estimate which is hereby authorized to take such steps as may be necessary in that regard.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-2.0 added chap 929/1937 § 1

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NYC Administrative Code 22-133

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-133 Acquisition of the necessary real property.

a. After the adoption and certification of such plans, and the filing thereof in the office of the commissioner, the mayor may direct the commissioner to acquire any and all real property included in such plans or any interest therein, which may be necessary for the creation of the terminal facilities shown upon the map or maps forming part of such plans. The proceedings for the acquisition of the title to such property shall be taken and conducted in the manner prescribed in subchapter one of chapter three of title five of the code.

b. Whenever, at any height, or depth, an area of land is required for the purposes of such terminal facilities, the entire fee of land furnishing such area, or such lesser estate therein, as the board of estimate shall deem needed for public use may be so acquired; and the city may use for other public purposes, or may lease or permit the use for storage, warehousing, manufacturing or otherwise, of such levels and parts of levels thereof as from time to time may not be required for such terminal facilities.

c. The area of land to be so acquired may include such area, additional and adjacent to that required for the structure of such terminal ways or stations, as such board may authorize and certify as required to be replotted, regraded or otherwise adapted for convenient access to and use of such ways or stations or other improvement of the water front of the city in connection therewith.

d. Such parts of the lands acquired by the city under and pursuant to the provisions of this subchapter which in

the judgment of the board of estimate are no longer required for the improvement of the water front facilities of the city or for any other public purpose, except the part of such lands so acquired as have been heretofore assigned by the board of estimate to the use of the department of ports and trade, may be sold by the city in the manner prescribed by subdivision b of section three hundred eighty-four of the charter. The proceeds of such sale shall be paid into the real property fund.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. d amended L.L. 14/1989 § 20

DERIVATION

Formerly § B29-3.0 added chap 929/1937 § 1

Amended chap 100/1963 § 531

Sub d amended LL 5/1986 § 20

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-134

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-134 Construction.

The board of estimate may direct the commissioner to build or cause to be built the whole or any part of terminal ways, including foundations, abutments and bridges required therefor, terminal stations and equipment thereof, provided for by such plans for terminal facilities, and generally to execute such plans.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-4.0 added chap 929/1937 § 1

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NYC Administrative Code 22-135

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-135 Operation.

The board of estimate may direct the commissioner to operate or to permit the use of terminal facilities upon such terms and subject to such regulations as such board from time to time may establish; and to carry into effect the provisions of this subchapter, the commissioner may purchase or lease or obtain in the best manner obtainable for the interests of the city, and according to law, power, light, heat and fixtures for the use thereof and other necessities and conveniences for such operation, provided that nothing contained in this subchapter shall be deemed to include the right or privilege to grant a franchise to carry on the business of generating, selling or distributing electric light, heat or power.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-5.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. This section and § B29-9.0 of the Code seems clearly to authorize the continued operation of a foreign trade

zone by the City and to authorize its private operation under certain expressed conditions.-American Dock Co. v. City of N.Y., 174 Misc. 813, 21 N.Y.S. 2d 943 [1940], aff'd without opinion, to extent appealed from, 261 App. Div. 1063, 26 N.Y.S. 2d 704 [1941], aff'd, 286 N.Y. 658, 36 N.E. 2d 646 [1941].

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NYC Administrative Code 22-136

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-136 Use of private facilities.

The board of estimate may hire or contract for use by the city in supplement or extension of its terminal facilities such ways, stations, basins, plant or service as, being owned or controlled by others than the city, shall be needed or proper to that end, but not for a longer period than twenty-five years, except as provided for by option to the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-6.0 added chap 929/1937 § 1

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NYC Administrative Code 22-137

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-137 Acquisition of private facilities.

In case any terminal facilities shall be provided, or agreed to be provided by the city as a substitute, in whole or in part, for any existing tracks, or other transportation or terminal facilities which the owner thereof may agree to surrender in consideration of the right to use such terminal facilities so provided in substitution, or agreed to be provided in substitution, the city may for such a time, and on such terms and conditions as may be agreed upon, lease, permit or agree in respect to such substituted use or operation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-7.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 22-138

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-138 Liability of city limited.

Neither in any such operation of any such way, station or store, nor in any such transport as it shall undertake, shall the city be or undertake to be liable as a common carrier.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-8.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-139

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-139 Private operation.

a. If the board of estimate shall determine that municipal operation of any terminal facilities is inexpedient, it shall advertise for proposals for the privilege of constructing, equipping and operating the same, or for equipping and operating after construction by the city, or for operating after construction and equipment by the city, by a notice to be printed once a week for two successive weeks in not less than two daily newspapers, and may require security from bidders for the execution of their bids, if accepted. Such notice shall describe such terminal facilities in such terms as the board of estimate shall deem proper, and shall state the time and place at which proposals will be received and opened. All proposals shall undertake to equip such facilities, unless equipment shall have been provided by the city, and to maintain and operate such terminal facilities for a period not exceeding twenty-five years, with the privilege, however, of renewing such contract for a further period not exceeding twenty-five years upon terms to be readjusted as provided in such contract. Such proposals may offer to pay to the city for the use of such terminal facilities either (1) a fixed annual sum; or (2) a share of gross receipts; or (3) a share of net receipts. The board of estimate, or a duly appointed committee thereof, shall attend at the time and place specified in such public notice, and shall publicly open all proposals which shall have been received, but such board shall not be bound to accept any proposals so received, and may reject all such proposals and readvertise for proposals in the manner hereinbefore provided, or may accept any of such proposals as will, in the judgment of such board, best promote the public interest, and award a contract accordingly.

b. Any contract for private operation of terminal facilities shall contain a provision whereby the city, at any time

after ten years, may terminate the same so far as it relates to the maintenance and operation of terminal ways, and terminal stations, and the equipment thereof, upon terms to be fixed in such contract, upon giving one year's written notice of its intention so to do. Upon termination by the city, pursuant to the privilege so reserved, the city shall purchase the equipment actually used in the operation of such terminal facilities at an amount agreed upon between the owner thereof and the city; or, in the event of failure to agree, at an amount to be fixed by appraisal, each party to name an impartial appraiser, and the two so named to select the third. In the event of failure to agree upon a third appraiser, he or she shall be named by the presiding justice of the appellate division of the supreme court, first department; provided, however, that the contract for the operation of such terminal facilities may provide for the amortization of all or a part of the operator's investment out of earnings, in which event the portion so amortized shall become the property of the city at the termination of the contract without further payment to the operator.

c. Any contract for private operation may provide for the construction of warehouses, factories or other buildings on land owned by the city, which warehouses, factories or buildings shall, during construction and at all times thereafter, be the property of the city. The contract may provide for the amortization of the cost of such warehouses, factories or buildings out of receipts from their operation, or out of receipts from the operation of all the terminal facilities included in such contract during the term thereof, and may provide for the payment by the city of any unamortized portion of the actual cost plus a reasonable contractor's profit, not to exceed fifteen per centum at the termination of the contract, or on the exercise of an option to recapture reserved in the contract. The contract may provide for the payment to the city for the privilege of operating such warehouses, factories, or other buildings so constructed, either (1) a fixed annual sum; or (2) a share of the gross receipts; or (3) a share in the net profits.

d. Such contract may contain any other provision not inconsistent with this section which the board of estimate may deem necessary or desirable for the protection of the interests of the city.

e. Notwithstanding the provisions of any general or special law, a railroad corporation may, with the consent of the board of estimate, purchase, acquire or hold any stocks or any bonds or other evidences of indebtedness of a corporation which, pursuant to this section, enters into a contract with the city for the operation of terminal facilities in the boroughs of Brooklyn and Queens, or either of them, and which contract provides for the handling over such terminal road of freight moved by water, or partly by rail and partly by water, and freight moved wholly by rail, without discrimination as between such freight moved by water, or partly by rail and partly by water, and freight moved wholly by rail. The consent of such board shall be granted only upon such notice and after such hearing as may be prescribed under rules and regulations which such board is hereby authorized to adopt.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-9.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Neither the United States nor the Foreign Trade Zones Board were necessary or proper parties to taxpayer's action under General Municipal City Law § 51 against City of New York and others for a judgment declaring invalid a contract between the City and a domestic corporation whereby the corporation undertook to operate a Foreign Trade Zone theretofore operated by the City on Staten Island under a federal grant from the Foreign Trade Zones Board, since the action attacked the validity of the operating contract between the City and the corporation and did not involve the federal grant, which would remain in effect regardless of the contract. The expressed view of the Zones Board that the contract did not violate the statute was merely advisory and did not constitute an "order" or "ruling" of the Board as a governing body.-American Dock Co. v. City of N.Y., 174 Misc. 813, 21 N.Y.S. 2d 943 [1940], aff'd without opinion, to extent appealed from, 261 App. Div. 1063, 26 N.Y.S. 2d 704 [1941], aff'd, 286 N.Y. 658, 36 N.E. 2d 696 [1941].

¶ 2. Inclusion, in table of repealed laws annexed to Administrative Code, of Laws of 1935, ch. 246, authorizing City to operate and maintain a Foreign Trade Zone at Staten Island, **held** inadvertent, in view of fact that purpose of Administrative Code was merely to clarify and restate existing statutes and laws (Admin. Code §§ 1-0.0, 963-1.0, 982-1.0) Administrative Code § 704c-3.0 specifically referred to the continued operation of the zone and Legislature would not be deemed to have intended an absurd result such as would result from a construction of § 704c-3.0 as meaningless, judicial notice would be taken of the haste with which the Administrative Code was enacted and the consequent possibility of error, Charter § 1 provides that the City should continue with the powers possessed at time the Charter took effect, §§ 701 to 712 confer upon the Commissioner jurisdiction over wharf property, and the Administrative Code is only a codifying and supplemental statute and nothing in it could abrogate the powers conferred by the Charter.-Id.

¶ 3. Operating contract with the domestic corporation **held** not invalid on ground it resulted in a forbidden transfer of the federal grant (19 U.S.C. § 81q), since purpose of the prohibition was to prevent alienation by grantee of the right to establish and maintain a zone, whereas the contract did not result in the City divesting itself of ownership of the grant, and moreover the City exercised a substantial supervision over the operation of the zone and recognized its continuing responsibility to the Foreign Trade Zones Board for its operation in accordance with the grant.-Id.

¶ 4. However, the operating contract was not authorized on the theory advanced that the power of the City to operate the zone carried with it a right to do through the medium of a third party that which it might do directly, since the contract was more in the nature of a lease of real property than a contract for rendition of services only, and in absence of legislative sanction such a lease of public property held by a municipality for public use may not be diverted to a use exclusively private. Legislative sanction could not be found in General City Law §§ 19 and 20, subds. 1, 8 and 23, nor Charter § 1, nor § 708a, which refers to operation by the City itself of its wharf property as a means of revenue in form of wharf collections, nor in Administrative Code § 704c-3.0, subd. 3.-Id.

¶ 5. Although Administrative Code §§ B29-5.0 and B29-9.0 would seem to authorize the continued operation and maintenance of the zone and its private operation under certain express conditions, the present contract did not comply with requirements of § B29-9.0 in that it imposed no obligation of equipment on the operator but obligated the City to furnish all equipment, and also to stand the expenses of maintaining terminal facilities, and to pay operating expenses.-Id.

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NYC Administrative Code 22-140

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 2 WATER FRONT TERMINALS

§ 22-140 Construction clause.

Nothing contained in this subchapter shall be construed as in any way limiting the present or future jurisdiction of the public service commission of the state of New York, and nothing contained in this subchapter shall be construed as limiting or repealing any of the provisions of the railroad law of the state of New York. Provided, however, that it shall not be necessary before constructing a railroad as part of terminal facilities to obtain a certificate of convenience and necessity from the public service commission.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B29-10.0 added chap 929/1937 § 1

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NYC Administrative Code 22-141

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-141 Definitions.

Unless expressly otherwise provided, whenever used in this subchapter, the following terms shall mean and include:

"Pier properties". The properties described in section 22-142 of this subchapter and improvements thereon.

"Rehabilitation". Repair, reconstruction, renovation, improvement or betterment of pier properties in order to place such property in good condition for pier and terminal purposes and the acquisition of real and personal property for use in connection therewith.

"Pier and terminal purposes". Operation and maintenance of facilities for docking, loading and unloading of vessels and the handling, storage, processing and interchange of cargoes.

"Vessels". Commercial ships and barges of every description.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-1.0 added chap 409/1944 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-142

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-142 Legislative finding.

It is hereby found and determined that the pier properties, heretofore constituting barge canal terminals and barge canal lands, in this section hereinafter generally described, are no longer necessary or useful for canal or terminal purposes or as an aid to navigation thereon:

The Greenpoint terminal, being all that tract, piece or parcel of land, situate, lying and being in the borough (formerly city) of Brooklyn, county of Kings, city and state of New York, bounded and described as follows (all bearings being referred to the true meridian):

Beginning at a point formed by the intersection of the center line of Commercial street as established at the time of the acquisition of the property herein described by the state of New York between Franklin and West streets and the center line of West street, as established at the time of the acquisition of the property herein described by the state of New York between Dupont and Eagle streets; thence from said point of beginning, southerly and south-easterly along the aforesaid center line of West street, one hundred eighteen and fifty-six hundredths feet to a point formed by the intersection of said center line of West street and a line parallel to the southerly side of Dupont street as laid out west of West street and distant ninety-five feet southerly therefrom; thence along said line eight hundred fifty-five and seventy-five hundredths feet to a point in the pierhead line as established at the time of the acquisition of the property herein described by the state of New York by law; thence northerly, northeasterly and easterly along said pierhead line, one thousand sixty-nine and thirty-two hundredths feet more or less to a point where the center line of Blue street as

established at the time of the acquisition of the property herein described by the state of New York, if extended, would intersect the aforesaid pierhead line; thence southerly and southeasterly along said center line of Blue street two hundred thirty-seven and twelve hundredths feet to a point in the westerly line of lands conveyed by the state of New York to the city of New York by letters-patent dated February thirteen, nineteen hundred forty-two; thence south thirty-seven degrees, four minutes, seventeen seconds west, along said westerly line of lands conveyed as aforesaid, one hundred fifty-three and thirty-two hundredths feet; thence continuing along said line of lands conveyed as aforesaid, the following several courses to said center line of Commercial street aforesaid, south seven degrees, eight minutes, forty-three seconds east, thirty-two and thirty-seven hundredths feet; thence north eighty-two degrees, fifty-one minutes, seventeen seconds east, forty-three feet; thence south seven degrees, eight minutes, forty-three seconds east, seventy feet; thence south eighty-two degrees, fifty-one minutes, seventeen seconds west, forty-three feet; thence south seven degrees, eight minutes, forty-three seconds east, seventy-seven feet; thence south fifty degrees, thirteen minutes, forty-eight seconds east, seventy-three and four hundredths feet; thence north eighty-two degrees, fifty-one minutes, seventeen seconds east, seventy-three and fifty-three hundredths feet to a point in said center line of Commercial street as aforesaid; thence south fifty-four degrees, twenty-five minutes, forty-seven seconds west, along said center line of Commercial street, seventy-five and seventy-eight hundredths feet to the point of beginning.

Being the same premises appropriated by the state for the barge canal terminal at Greenpoint, in the borough of Brooklyn, county of Kings, city of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of nineteen hundred eleven, as shown on map of parcel number T-8, terminal contract number nineteen, approved by the canal board on June eight, nineteen hundred twelve and on file in the department of transportation of the state of New York, excepting so much thereof as was conveyed by the state of New York to the city of New York by letters-patent dated February thirteen, nineteen hundred forty-two.

The Hallet's cove terminal being all that tract or parcel of land, situate, lying and being near the foot of Camelia street, Hallet's cove, East River, borough and county of Queens, city and state of New York, bounded and described as follows (all bearings being referred to the true meridian):

Beginning at the point of intersection of the northerly side of Broadway and the pierhead and bulkhead line established by the harbor commission in eighteen hundred fifty-seven; thence running along said pierhead and bulkhead line north seventy degrees, nine minutes east two hundred seventy-six and twenty-five hundredths feet; thence still along said line north sixty-six degrees, fourteen minutes east one hundred seventy-two and eighty hundredths feet to a point in the southerly boundary line of lands owned or claimed by John W. Scott; thence along said southerly boundary line south fifty degrees east one hundred ninety-five feet to a point in the westerly side of the boulevard; thence south twelve degrees, twenty-eight minutes west three hundred forty-seven and sixty hundredths feet to a point in the northwesterly boundary line of lands owned or claimed by Peter McKernan; thence along said northwesterly boundary line south seventy-four degrees twenty-three minutes west sixty-four and forty-two hundredths feet to the lands owned or claimed by T. W. Stevens; thence still south seventy-four degrees, twenty-three minutes west seventy-one and eleven hundredths feet along the northwesterly line of the last mentioned lands to a point in the northerly side of Broadway; thence along the said northerly side of Broadway north forty-six degrees, fifty-eight minutes west four hundred ninety-four and ninety hundredths feet more or less to the point of beginning,

Being the same premises appropriated by the state for the barge canal terminal at Hallet's cove, East river, borough of Queens, county of Queens, city of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of New York, nineteen hundred eleven, as amended, as shown on parcel number T-99, terminal contract number forty-five, approved by the canal board on December twenty-one, nineteen hundred fourteen, and on file in the department of transportation of the state of New York.

The east 138th street terminal, being all those three tracts or parcels of land situate, lying and being in the 23rd Ward of the borough and county of the Bronx, city and state of New York, and being a part of section nine, block 2339, hereinafter bounded and described as follows (all bearings being referred to the easterly side of tenth avenue as the meridian, the bearing of which referred to true north is twenty-eight degrees, fifty-nine minutes, twenty-seven and

thirty-three hundredths seconds east):

(1) Beginning at the point of intersection of the westerly line of Exterior street as at present laid out and the northerly line of the lands of the New York and Harlem railroad company distant six hundred eighty-three and six hundredths feet from the southwest corner of Exterior street and east 138th street as at present laid out, thence running along the said northerly boundary line the following bearings and courses south forty-seven degrees, eight minutes, thirty-nine seconds west thirteen and thirteen hundredths feet; thence south forty-eight degrees, fifty-four minutes, thirty-two seconds west fifty-two and three hundredths feet; thence south fifty degrees, forty-three minutes, fifty-two seconds west fifty-three and sixteen hundredths feet; thence south fifty-two degrees, fifty-four minutes, thirty-two seconds west eight and sixty-one hundredths feet to a point in the pierhead and bulkhead line of the Harlem river approved by the secretary of war in eighteen hundred ninety; thence along the pierhead and bulkhead line north twenty-two degrees, twenty-six minutes, thirty-five seconds east, seventy-six and fifty hundredths feet to a point; thence along said line north twenty-three degrees, twenty-four minutes, three seconds west two hundred thirty-four and sixty-two hundredths feet to a point in the southerly boundary line of lands owned or claimed by the Harlem river lumber and woodworking company; thence north sixty-three degrees, fifty-five minutes, eleven seconds east, one hundred seventy-four and fifteen hundredths feet along said southerly boundary line to a point in the westerly side of Exterior street as at present laid out; thence south twelve degrees, thirty-seven minutes, ten seconds east, two hundred eighty-seven and fifty-eight hundredths feet along the said westerly side of Exterior street to the point of beginning,

Being the same premises appropriated by the state for the barge canal terminal at East 138th street, Harlem river, in the borough and county of Bronx, city of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of New York nineteen hundred eleven, as amended, as shown on map of parcel number T-100, terminal contract number forty-four, approved by the canal board on December eighteen, nineteen hundred fourteen, and on file in the department of transportation of the state of New York.

(2) Beginning at a point in the westerly side of Exterior street as at present laid out and distant three hundred twenty-one and ninety-one hundredths feet from the southwest corner of Exterior street and east 138th street as at present laid out; thence along the said westerly side of Exterior street south twelve degrees, thirty-seven minutes, ten seconds east, seventy-three and fifty-seven hundredths feet to a point in the northerly boundary line of lands owned or claimed by Bradley L. Eaton and Vashti G. his wife; thence along said northerly boundary line south sixty-three degrees, fifty-five minutes, eleven seconds west one hundred seventy-four and fifteen hundredths feet to a point in the pierhead and bulkhead line approved by the secretary of war in eighteen hundred ninety; thence along the said pierhead and bulkhead line north twenty-three degrees, twenty-four minutes, three seconds west, sixty-one and forty-eight hundredths feet more or less; thence north twenty-four degrees, fifty-five minutes, fifty seconds west, forty-three and fifty-two hundredths feet more or less along said pierhead line to a point in the southerly boundary line of lands owned or claimed by John J. Bell; thence north seventy-four degrees, twelve minutes, seventeen seconds east, one hundred ninety and sixty-two hundredths feet to the point of beginning,

Being the same premises appropriated by the state for the barge canal terminal at east 138th street, Harlem river, borough of Bronx, county of Bronx, city of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of New York, nineteen hundred eleven, as amended, as shown on parcel number T-101, terminal contract number forty-four, approved by the canal board on December eighteen, nineteen hundred fourteen, and on file in the department of transportation of the state of New York.

(3) Beginning at a point in the westerly side of Exterior street as at present laid out and distant one hundred thirty-four and sixty-nine hundredths feet southerly from the intersection of the said westerly side of Exterior street with the southerly side of east 138th street as at present laid out; thence running south twelve degrees, thirty-seven minutes, ten seconds east, one hundred eighty-seven and twenty-two hundredths feet more or less along said westerly line of Exterior street to a point in the northerly line of lands owned or claimed by the Harlem river lumber and woodworking company, thence along said boundary line south seventy-four degrees, twelve minutes, seventeen seconds west, one hundred ninety and sixty-two hundredths feet to a point in the pierhead and bulkhead line of the Harlem river approved

by the secretary of war in eighteen hundred ninety; thence running north twenty-four degrees, fifty-five minutes, fifty seconds west, two hundred fifty-one and fifty-six hundredths feet more or less to a point in said line; thence north twenty-six degrees, no minutes, twenty-eight seconds west, thirteen and three hundredths feet more or less to the intersection of the southerly boundary line of land owned or claimed by long dock mill and elevator with said pierhead and bulkhead line; thence running along said southerly boundary line south eighty-nine degrees, nine minutes, ten seconds east, one hundred thirty-five and fifty hundredths feet more or less; thence south eighty-nine degrees, fifty-five minutes, ten seconds east, twenty-two and fifty hundredths feet more or less; thence south eighty-eight degrees, five minutes, ten seconds east, ninety-six and thirty-four hundredths feet more or less to the point of beginning,

Being the same premises appropriated by the state for the barge canal terminal at east 138th street, Harlem river, borough of Bronx, county of Bronx, city of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of New York, nineteen hundred eleven, as amended, as shown on parcel number T-102, terminal contract number forty-four, approved by the canal board on December eighteen, nineteen hundred fourteen, and on file in the department of transportation of the state of New York.

The Coenties Slip terminal, being all that tract or parcel of land, situate, lying and being in the borough of Manhattan, city of New York, state of New York, bounded and described as follows (all bearings being referred to the meridian of bureau of design and surveys, New York):

Beginning at a point distant one hundred twenty-seven and seventy-six hundredths feet and south seventy-three degrees, no minutes, fifty-five seconds east from the point of intersection of the northerly building line of South street with the westerly building line of (westerly) Coenties Slip, which building lines were determined by the bureau of design and surveys, Manhattan and shown on their map dated November fifteen, nineteen hundred fifteen; thence north thirty degrees, forty-seven minutes, nineteen seconds east, two hundred ten and sixty-three hundredths feet to a point in a line approximately in the center of the slip between piers six and seven, said line intersecting the bulkhead line at a point fifty-two and twenty-six hundredths feet easterly from the easterly side of pier six, and intersecting the pierhead line at a point ninety-one and ninety-one hundredths feet easterly from the easterly side of pier six; thence along said line south sixty-two degrees, twenty-nine minutes, thirty-eight seconds east, to a point in the exterior boundary line of lands under water granted to the city of New York by the state of New York September twenty-eight, eighteen hundred seventy-one; thence southwesterly along said exterior boundary line to a point in a line approximately in the center of the slip between piers four and five, said line intersecting the pierhead line at a point one hundred eleven and thirty-eight hundredths feet westerly from the westerly side of pier five and intersecting the bulkhead at a point eighty-four and eighty-one hundredths feet westerly from the westerly side of pier five; thence along said line north forty-seven degrees, fifty-eight minutes, nineteen seconds west to a point in a line parallel to and distant ten feet from the existing bulkhead line between Broad street and (westerly) Coenties Slip, thence along said parallel line north forty-two degrees, forty-eight minutes, twenty-six seconds east, one hundred eighty-eight and fifty-seven hundredths feet to the point of beginning,

Being the same premises appropriated by the state of New York for the barge canal terminal in the East river at the foot of Coenties Slip, in the borough of Manhattan, city and county of New York, pursuant to the provisions of chapter seven hundred forty-six of the laws of New York, nineteen hundred eleven, as amended, as shown on parcel number T-129, terminal contract number fifty-two, approved by the canal board on April twenty-four, nineteen hundred sixteen, and on file in the department of transportation of the state of New York.

The Pier ninety-three at west fifty-third street, being all that tract, piece or parcel of land situate, lying and being in the borough of Manhattan, city of New York, state of New York, bounded and described as follows:

Beginning at a point 239.5 feet westerly from the easterly side of Twelfth Avenue, said point being 107.92 feet northerly from the northerly side of West 53rd Street produced; thence southerly from said point of beginning parallel to the easterly side of Twelfth Avenue 275.83 feet; thence westerly and parallel to the southerly side of West 53rd Street produced 760.5 feet, more or less, to a point in the exterior line of land under water granted to the city of New York by

the state of New York in eighteen hundred seventy-one; thence northerly along said exterior line 275.83 feet, more or less, to a point in a line parallel to and distant 107.92 feet from the northerly side of West 53rd Street produced; thence easterly along said parallel line 760.5 feet, more or less, to the point of beginning, containing 209,771 square feet, more or less, as shown upon a certain map made by the state engineer of the state of New York, marked "T-130".

Being the same premises that were conveyed to the people of the state of New York by the city of New York by deed dated February sixteen, nineteen hundred seventeen, and recorded, together with the said map marked "T-130", in the New York County Register's office on April seven, nineteen hundred seventeen, in liber three thousand two of deeds at page two hundred fifty-four.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-2.0 added chap 409/1944 § 1

Administrative Code of the City of New York

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NYC Administrative Code 22-143

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-143 Transfer.

Upon the adoption of a resolution by the board of estimate, pursuant to section one hundred ninety-seven-c of the charter, signifying acceptance of such pier properties and subject to the following conditions, and upon the delivery of a certified copy of such resolution to the secretary of state of the state of New York, all right, title and interest of the state of New York in and to such pier properties and appurtenances thereto and in to the equipment, chattels and other tangible property thereat and used in the operation thereof, and in and to the rents and revenues thereof which shall accrue from and after vesting of title as herein provided, shall thereby vest in the city:

(a) That the city shall rehabilitate such pier properties.

(b) That the city shall not use or permit the use of such pier properties for any purpose which will materially and substantially interfere with their use for pier and terminal purposes.

(c) That the city shall not grant or convey title to such pier properties to any person or legal entity other than the state.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-3.0 added chap 409/1944 § 1

Amended LL 54/1977 § 67

Administrative Code of the City of New York

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NYC Administrative Code 22-144

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-144 Executory contracts.

Upon the vesting in the city of the right, title and interest of the state in and to such pier properties and as an incident thereto, there shall also vest in the city all the right, title and interest of the state in and to and in connection with any and all executory contracts and agreements in connection with such pier properties except as to moneys and rights accrued thereunder at the time of vesting of title as herein provided.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-4.0 added chap 409/1944 § 1

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NYC Administrative Code 22-145

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-145 Violation of conditions.

If the city shall violate any of the conditions set forth in section 22-143 of this subchapter, then at the option of the state the particular pier property or pier properties with respect to which or out of the operation of which such violation arises shall revert to the state; provided, that the state shall within a reasonable time after the discovery of such violation serve written notice upon the city requesting that such violation be remedied, and provided further, that the city shall fail to remedy such violation within a reasonable time thereafter; provided further, however, that the commissioner of general services is hereby authorized to grant and convey to the city of New York the remaining right, title and interest of the state of New York in a particular pier property or all such properties, free of the conditions and restrictions contained in sections 22-143, 22-144, 22-146, 22-147, 22-148 and 22-149 of this subchapter, upon such other terms and conditions, including consideration, as he or she may fix and determine and such property may be used for any and all purposes permitted by law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-5.0 added chap 409/1944 § 1

Amended chap 992/1972 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-146

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-146 State lands in case of reverter.

The pier properties, if any, which revert to the state pursuant to this subchapter shall be and shall be deemed to be unappropriated state lands.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-6.0 added chap 409/1944 § 1

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NYC Administrative Code 22-147

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-147 Rehabilitation of pier properties.

The city of New York shall proceed with the rehabilitation of such pier properties as and when in its opinion it is practicable so to do. No failure on its part to rehabilitate any pier property or properties and no delay in the rehabilitation thereof, because of the non-availability of materials or any other reason for which the city is not responsible or over which it has no control, shall constitute a violation of condition (a) of section 22-143 of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-7.0 added chap 409/1944 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-148

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-148 Intent.

It is the intent of this subchapter that the rehabilitation, maintenance and operation of such pier properties shall be in all respects for the benefit of the people of the state of New York and to provide needed transportation and terminal facilities so that their commerce and prosperity may be increased and their health and living conditions improved. The city is hereby declared to be and shall be regarded as performing an essential governmental function in rehabilitating, maintaining and operating such pier properties.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-8.0 added chap 409/1944 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-149

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1 WATERFRONT PROPERTIES TRANSACTIONS AND TRADE

SUBCHAPTER 3 TRANSFER OF BARGE CANAL TERMINALS TO CITY

§ 22-149 Tax exemption.

No taxes shall be payable or required to be paid upon any of such pier properties or upon any interest therein or upon any other property, real or personal, acquired or used in connection therewith.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C29-9.0 added chap 409/1944 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-201

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-201 Legislative findings.

The council hereby finds that the fulton fish market, the center of New York's wholesale seafood industry located in lower Manhattan, has for decades been corruptly influenced by organized crime; that organized crime's corrupting influence over certain functions in the market, including the unloading and loading functions, has resulted in the commission of numerous crimes and wrongful acts there, including but not limited to physical violence or threats of violence, property damage, and thefts; that organized crime's corrupting influence over the market has fostered and sustained a cartel that has forced seafood suppliers and truckers to use particular unloading crews at fixed prices in an anticompetitive scheme that has been censured by a federal judge; that organized crime's corrupting influence has resulted in retailers parking on city streets and city property nevertheless having to pay high fees to private loading crews whose principal function has been to provide "security" for those vehicles and their contents while retailers have purchased fish in the crime-ridden market area; and that these corrupting influences have further resulted in higher prices for wholesale seafood than would otherwise have to be paid in the absence of this activity. The council further finds that despite the repeated efforts of law enforcement to prosecute crimes there and the presence of a court-appointed administrator for the market, the problem of organized crime corruption in the market has persisted. The council further finds that the market's businesses, including wholesalers, seafood deliverers, unloaders and loaders, have not been effectively regulated by the city in the past under existing laws and regulations governing public markets, even though they often operate on city property, albeit without leases, licenses and registration. The council fur-ther finds that, in the absence of an effective regulatory scheme, wholesalers have established a "gray market" in tenancies at rates in excess of those being paid to the city and have thus deprived the public of its rightful return on city property, and further, that unscrupulous businesses have taken advantage of this absence of regulation to engage in fraudulent

practices, such as the creation of "phantom wholesalers" whose businesses disappear from the market before payment can be obtained from them for seafood they have received from suppliers, and that such practices have discouraged suppliers from utilizing the market area

The council therefore finds and declares that in order to provide for the more efficient and orderly conduct of business in the market area, to ensure that any such activities are lawfully conducted, to promote the economic vitality of the market and to protect the public interest, it is necessary for the commissioner of small business services to have expanded authority to license and/or register businesses in the market area and to regulate the conduct of such businesses. In particular, the council finds that, in order to achieve these objectives, the commissioner of small business services should be authorized to issue requests for licensing proposals to provide unloading and loading services in the market area and, at his or her discretion, issue one or more unloading and loading licenses based on the review and evaluation of responses received pursuant to such requests. In the event that no appropriate responses are received to such requests, the commissioner should be authorized to arrange for the department of small business services itself to perform unloading or loading services or to arrange that they be performed by a contractor or a designee of the department.

The council recognizes that complaints have been made about the conduct of seafood distribution activities outside the market area and finds further that the conditions which have given rise to corruption in the market area can exist in other areas where there are wholesale seafood businesses or concentrations of such businesses. The council also recognizes that representatives of such businesses have threatened to move their operations elsewhere and that some may relocate to other parts of the city. The council thus finds and declares that it is also necessary for the commissioner of small business services to have authority to regulate seafood distribution in areas of the city outside the market area in which such seafood businesses may concentrate.

Application of this chapter will enhance the city's ability to address organized crime corruption and to protect consumers and the many honest business persons who do business in or with the market or at other seafood distribution areas. It is thus the council's intent to empower the city to have greater regulatory authority over the conduct business in the market and in other seafood distribution areas.

HISTORICAL NOTE

Section amended L.L. 34/2002 § 15, eff. Nov. 7, 2002.

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-202

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-202 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

a. "Applicant" shall mean, if a business entity submitting a response to a request for licensing proposals, an application for a temporary license or a registration application, the entity itself and all the principals thereof; if an individual submitting an application for a photo identification card, such individual.

b. "Business entity" shall mean a sole proprietorship, partnership, corporation, or other entity established under law and authorized to conduct business within the state of New York.

c. "Commissioner" shall mean the commissioner of small business services.

d. "Department"shall mean the New York city department of small business services.

e. "Designee of the department" shall mean the department of citywide administrative services and, with respect to loading services or the direction of traffic within the market area, the department of transportation.

f. "Fulton fish market distribution area" or "market area" shall mean the area beginning at the point where the westerly street line of water street intersects the southerly street line of maiden lane; thence easterly along the southerly street line of maiden lane as extended to the east river U.S. pierhead line; thence northerly along the east river U.S. pierhead line to the northerly street line of robert wagner sr. place as extended; thence westerly along the northerly

street line of robert wagner sr. place to the prolongation of the westerly street line of pearl street; thence southerly along the westerly street line of pearl street to the southerly street line of fulton street; thence easterly along the southerly street line of fulton street to the westerly street line of water street; thence southerly along the westerly street line of water street to the point of beginning.

g. "Loader" shall mean an individual who performs loading services.

h. "Loading business" shall mean any business entity that, for a payment, provides loading services.

i. "Loading services" shall mean services performed by a loader and provided by a loading business for a purchaser of seafood, including parking such purchaser's vehicle, moving such vehicle when necessary for traffic control, loading seafood onto such vehicle, and ensuring the security of such vehicle and the seafood loaded thereon; provided, however, that the term shall not mean the loading of seafood onto the vehicle of a purchaser when such loading is performed by an employee of a wholesaler by delivering seafood from such wholesaler to the vehicle of the purchaser thereof or by an employee of such purchaser.

j. "License" shall mean an unloading business license or a loading business license issued by the commissioner authorizing the conduct of such business in the market area.

k. "Market manager" shall mean a person designated by the commissioner to supervise operations in the market area or a seafood distribution area designated by the commissioner pursuant to section 22-222 of this chapter and to maintain and distribute a list of wholesalers pursuant to subdivision a of such section. Such supervision shall include, without limitation: implementation of rules promulgated pursuant to this chapter and the authority to enforce violations of any provision of this chapter or the rules promulgated thereunder; supervision of department staff employed in the market area; response to complaints relating to the operation of businesses in the market area; examination of documents required to be maintained by a licensee or registrant pursuant to this chapter; referrals, where appropriate, to any law enforcement, investigative or prosecutorial agency of matters occurring within the market area; and such other functions and duties as the commissioner may assign consistent with the provisions of this chapter.

l. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten percent or more of the outstanding shares of the corporations; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; (iv) a partnership in which such individual is a partner in proportion to the partnership interest of such individual; and (v) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

m. "Seafood" shall mean fish, seafood or consumables derived therefrom.

n. "Seafood delivery business" or "seafood deliverer" shall mean any business entity, that, for payment, delivers seafood from wholesalers in the market area by truck or other vehicle to retail establishments or other wholesalers.

o. "Stand permit" shall mean an occupancy permit granted by the commissioner subject to such conditions as the commissioner shall prescribe authorizing use of city property by a wholesaler for the placement of seafood in an area extending into a city street.

p. "Unloader" shall mean an individual who performs unloading services.

q. "Unloading business" shall mean any business entity that, for a payment, provides unloading services.

r. "Unloading services" shall mean the unloading of seafood from a truck or other vehicle in which such seafood has been transported from suppliers and the delivery thereof to wholesalers or the transfer thereof to other trucks or vehicles for transport to other locations.

s. "Wholesaler" or "wholesale seafood business" shall mean any business entity which sells or offers for sale seafood for resale to the public, whether or not such business entity also sells or offers for sale seafood directly to the public; except that "wholesaler" shall not include any such entity that is primarily engaged in the sale of seafood that has been processed and packaged by another business for sale to consumers in such packaged form.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995

Subd. c amended L.L. 34/2002 § 16, eff. Nov. 7, 2002.

Subd. d amended L.L. 34/2002 § 16, eff. Nov. 7, 2002.

Subd. e amended L.L. 59/1996 § 84, eff. Aug. 8, 1996

Subd. l amended L.L. 27/1998 § 25, eff. Sept. 5, 1998.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-202.1

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-202.1 [Applicability of chapter 1-B.]*

A1 market business in the fulton fish market distribution area as such term is defined in section 22-251 of this code shall be subject to the provisions governing market businesses in chapter 1-B of this title.

HISTORICAL NOTE

Section added L.L. 28/1997 § 8, eff. May 16, 1997.

FOOTNOTES

1

[Footnote 1]: * Section heading supplied by editor.

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NYC Administrative Code 22-203

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-203 Photo identification card required.

a. The market manager shall issue photo identification cards to those principals, employees and agents of any business licensed pursuant to this chapter who perform any function directly related to the handling or transportation of seafood within or from the market area. Such cards shall be termed class A photo identification cards and shall be issued subject to the provisions set forth in section 22-216 of this chapter and the fee for such card established by the commissioner by rule pursuant to section 22-223 of this chapter. Such cards shall be displayed so as to be readily visible to others during the hours of market operation, as designated by the market manager.

b. (i) In addition to the identification cards issued pursuant to subdivision a of this section, the market manager shall issue photo identification cards to those principals and employees of any business entity registered pursuant to this chapter and also to any agent of such registrant, other person or business entity who performs any function directly related to the handling and transportation of seafood within or from the market area. Such identification cards shall be termed class B photo identification cards and shall be issued subject to such requirements and fees as the commissioner shall promulgate by rule pursuant to section 22-223 of this chapter. Such cards shall be displayed so as to be readily visible to others during the hours of market operation designated by the market manager.

(ii) Notwithstanding any provision of this subdivision, the commissioner may, when there is reasonable cause to believe that an applicant for a class B photo identification card lacks good character, honesty and integrity, require that such applicant be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter. The commissioner may thereafter, after notice and opportunity to be heard, refuse to issue a photo identification card for the reasons set forth in subdivision b of such section.

(iii) If at any time subsequent to the issuance of a class B photo identification card, there is reasonable cause to believe that the holder thereof does not possess good character, honesty and integrity, the commissioner may require such person to be fingerprinted and to provide the background information required by subdivision a of section 22-216 of this chapter and may, after notice and opportunity for a hearing, revoke such class B photo identification card for the reasons set forth in subdivision b of such section.

c. The market manager may, where appropriate, issue a provisional photo identification card to an employee or agent of a licensee or registrant who has submitted the information and fee required by this chapter or any rules promulgated thereunder. A photo identification card issued pursuant to this paragraph shall be valid until the commissioner has either issued or denied a permanent identification card, unless such provisional card has been revoked or suspended prior thereto in accordance with the procedures set forth in this chapter. The market manager, may, in his or her discretion, also make provision for temporary identification cards, which shall be valid for a period not to exceed six weeks, to be issued to persons employed by unloaders, loaders, wholesalers and seafood deliverers on a seasonal or other temporary basis.

d. A photo identification card issued pursuant to this section shall bear a photograph of the person to whom it was issued and such other identifying information as may be specified by the commissioner.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-204

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-204 Unloading business license required.

a. It shall be unlawful to conduct an unloading business or otherwise provide unloading services in the fulton fish market distribution area without having first obtained an unloading business license from the commissioner pursuant to the provisions of this section. An unloding business license shall not be transferable.

b. The commissioner shall issue a request for licensing proposals and shall, at his or her discretion, issue one or more unloading business licenses based upon the review and evaluation of responses received pursuant to such request. Such request for proposals shall solicit information regarding the qualifications of proposers, their proposed methods of unloading, the labor and equipment they propose to utilize in the unloading operation, rates proposed to be charged to wholesalers, procedures proposed to be used to comply with sanitary requirements, and any other information relating to performance standards, responsibility and service that the commissioner deems appropriate. A proposal in response to a request for licensing proposals issued pursuant to this section shall be submitted on behalf of a business entity by all the principals thereof on a form bearing the signatures of all such principals.

c. A license issued pursuant to this section shall state the name, address and telephone number of the licensee and the names and business addresses of all principals of such licensee. A copy of such license shall be presented by the unloading business to any wholesaler upon request.

d. A license issued pursuant to this section shall also contain conditions that: (i) specify the maximum rates to be charged to wholesalers;

(ii) specify the standard and level of performance of unloading and customer service which shall be maintained throughout the term of the license to ensure the continuing efficient unloading of seafood in the market area;

(iii) require that the unloading business obtain a performance bond or such other guarantee of performance that the commissioner determines is appropriate and sufficient to cover any cost incurred by the city in providing or performing unloading services pursuant to section 22-208 of this chapter due to revocation of the license or default in the performance of the conditions specified in the license and specify the amount of such performance bond or guarantee; and

(iv) prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, the use of city property, or such other matters as the commissioner deems appropriate and necessary to effectuate the purposes of this chapter.

e. An unloading business licensed pursuant to this section may not charge more for the provision of unloading services that the maximum rate set forth in the license without the written permission of the commissioner, nor may an unloading business or any principal, employee or agent thereof request or accept any other fees or gratuities for performing unloading services.

f. No unloading business licensee, shall, by contract or otherwise, assign or delegate to or engage any other business entity to provide the unloading services specified in the license, whether upon an emergency or any other basis, unless the commissioner has provided specific written authorization therefor.

g. (i) The commissioner shall be authorized, upon due notice and opportunity for a hearing, to suspend or revoke a license issued pursuant to this section based upon a determination that there has been a default in the performance of the conditions specified in such license or for reasons set forth in sections 22-217 or 22-218 of this chapter. The commissioner shall also be authorized to pursue other remedies for a default in the performance of the conditions specified in the license, including but not limited to, reimbursement for any expenses incurred by the department in performing or providing unloading services in the market area.

(ii) In the event of such suspension or revocation, or when the commissioner determines that additional unloading services are required because a licensee has discontinued unloading operations in the market area or the existing unloading business or businesses are for other reasons unable to provide adequate or sufficient unloading services in the market area, the commissioner may, as he or she deems appropriate, issue a new license to one or more business entities which responded to the most recent request for licensing proposals, issue a new request for licensing proposals pursuant to this section or arrange for the department, a designee of the department or an entity under contract to the department to provide unloading services in the market area. A new license issued pursuant to a request for licensing proposals shall be valid for the remainder of the term of the original license. The commissioner may also solicit expressions of interest from business entities in providing unloading services on a temporary basis and may issue a temporary license or licenses to provide unloading services in the market area to the most qualified of such entities in a situation where the suspension or revocation of a license or the discontinuance of unloading operations by a licensee has created a shortage of unloading services in the market area or the existing unloading business or businesses are for other reasons unable to provide adequate or sufficient unloading services. A temporary license issued pursuant to this subdivision shall be valid for a period of up to one year, provided that such license shall not extend beyond the remainder of the term of the original license. The fee for such temporary license shall be prorated to the term of the original license.

h. Prior to the expiration of the term of a license issued pursuant to this section, the commissioner shall issue a new request for licensing proposals pursuant to subdivision b of this section. Where the term of such license has been extended for an additional period pursuant to section 22-213 of this chapter, the new request for licensing proposals shall be issued prior to the expiration of such period.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-205

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-205 Conduct of unloading businesses.

The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly and lawful unloading of seafood in the fulton fish market distribution area, including but not limited to: (i) a procedure for determining the order in which trucks or other vehicles are unloaded; (ii) designation of waiting areas for trucks that enter the fulton fish market distribution area; (iii) designation of unloading areas in the fulton fish market distribution area and, in the event such designated unloading area is located on property belonging to the city, the charging of a fee for the use of such property by an unloading business; (iv) designation of hours for the unloading of seafood in the fulton fish market distribution area; (v) documentation requirements for the delivery and receipt of seafood; (vi) requirements for the disposal of waste and other sanitary measures; (vii) provisions prescribing maintenance and availability of records for inspection by the commissioner or the market manager; and (viii) appropriate insurance and bonding requirements.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Section heading amended L.L. 54/1995 § 2, eff. June 15, 1995.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-206

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-206 Loading license required.

a. It shall be unlawful to conduct a loading business or otherwise provide loading services in the fulton fish market distribution area, or provide such services to purchasers of seafood from wholesalers in such market area, without first having obtained a loading business license issued by the commissioner pursuant to the provisions of this section. A loading business license shall not be transferable.

b. The commissioner shall issue a request for licensing proposals and shall, at his or her discretion, issue one or more loading business licenses based upon the review and evaluation of responses received pursuant to such request. Such request for licensing proposals shall solicit information regarding the rates proposed to be charged to provide loading services in the market area, the areas in which loading operations are proposed to be conducted, the labor proposed to be utilized in providing loading services, and any other information relating to performance standards, responsibility and service that the commissioner deems appropriate. A proposal in response to a request for licensing proposals issued pursuant to this section shall be submitted on behalf of a business entity by all the principals thereof on a form signed by all such principals.

c. A license issued pursuant to subdivision b of this section shall state the name, address and telephone number of the licensee and the names and business addresses of all principals of such licensee. A copy of such license shall be presented by the loading business to any wholesaler in the market area or purchaser of seafood from such wholesalers or to an employee of such wholesaler or purchaser upon request.

d. A license issued pursuant to this section shall also contain conditions that: (i) specify the maximum rate to be

charged for loading services;

(ii) specify the standard and level of performance of loading services which shall be maintained throughout the term of the agreement to ensure efficient loading services in the market.

(iii) require that the loading business obtain a performance bond or such other guarantee of performance that the commissioner determines is appropriate and sufficient to cover any cost incurred by the city in providing or performing services related to loading pursuant to section 22-208 of this chapter due to revocation of the license or default in the performance of the conditions specified in the license and specify the amount of such performance bond or guarantee; and

(iv) prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, the use of city property, or such other matters as the commissioner deems appropriate and necessary to effectuate the purposes of this chapter.

e. A loading business licensed pursuant to this chapter shall not charge more than the maximum rates specified in the loading business license, nor may a loading business or any principal, employee or agent thereof request any other fee or gratuity for performing loading services.

f. No loading business licensee, shall, by contract or otherwise, assign or delegate to, or engage any other business entity to provide loading services in the market area, whether upon an emergency or any other basis, unless the commissioner has provided specific written authorization therefor.

g. (i) The commissioner shall be authorized, upon due notice and opportunity for a hearing, to suspend or revoke a license issue pursuant to this section based upon a determination that there has been a default in the performance of the conditions specified in such license or for reasons set forth in section 22-217 or 22-218 of this chapter. The commissioner shall also be authorized to pursue other remedies for a default in the performance of the conditions specified in the license, including but not limited to, reimbursement for any expenses incurred by the department in performing or providing loading services in the market area.

(ii) In the event of such suspension or revocation, or when the commissioner determines that additional loading services are required because a licensee has discontinued loading operations in the market area or because the existing loading business or businesses are for other reasons unable to provide adequate or sufficient loading services in the market area, the commissioner may, as he or she deems appropriate, issue a new license to one or more business entities which responded to the most recent request for licensing proposals previously issued, issue a new request for licensing proposals pursuant to this section or arrange for the department, a designee of the department or a business entity under contract to the department to provide loading services in the market area. A new license issued pursuant to a request for licensing proposals shall be valid for the remainder of the term of the original license. The commissioner may also solicit expressions of interest from business entities to provide loading services in the market area on a temporary basis and may also issue a temporary license or licenses to provide loading services in the market area to the most qualified of such entities in a situation where the suspension or revocation of a license or the discontinuance of loading operations by a licensee has created a shortage of loading services in the market area or the existing licensed loading business or businesses are for other reasons unable to provide adequate or sufficient loading services. A temporary license issue pursuant to this subdivision shall be valid for a period not to exceed one year, provided that such license shall not extend beyond the remainder of the term of the original license. The fee for such temporary license shall be prorated to the term of the original license.

h. Prior to the expiration of a license issued pursuant to this section, the commissioner shall issue a new request for licensing proposals pursuant to subdivision b of this section. Where the term of such license has been extended for an additional period pursuant to section 22-213 of this chapter, the new request for licensing proposals shall be issued prior to the expiration of such period.

i. Nothing in this chapter shall be construed to prevent the commissioner from determining, for a reason other than those set forth in subdivision g of this section, that the department itself, a designee of the department or an entity under contract to the department shall provide loading services on property owned by the city in the market area. In the event that the department determines to provide such services, the provisions of subdivisions a through g of this section shall not apply.

j. Nothing in this chapter shall be construed to require the department to authorize any party to use property owned by the city in the market area for the purpose of conducting a loading business.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. g par (ii) amended L.L. 28/1997 § 4, eff. May 16, 1997.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-207

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-207 Conduct of loading businesses.

a. The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly and lawful conduct of loading businesses in the fulton fish market distribution area. Such measures may include the establishment of a voucher system under which (i) loaders are prohibited from accepting cash payments for performing loading services and (ii) persons wishing to have loading services performed for them may purchase vouchers from the market manager and present them to loaders in payment for loading services. Such vouchers shall thereafter be redeemed by the loading business for payment from the market manager.

b. Such measures may also include, but shall not be limited to: (i) appropriate insurance requirements; (ii) prohibitions on interference with vehicles lawfully parked in the market area; (iii) designation of loading areas in the market area, a requirement that a loading business obtain a lease or an occupancy permit for the occupancy of property owned by the city when a designated loading area is located on such property and the establishment of a fee for such permit; (iv) designation of hours during which loading services may be performed; (v) provisions prescribing maintenance and availability of records for inspection by the market manager or the commissioner; and (vi) appropriate insurance and bonding requirements.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-208

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-208 Loading and unloading services provided by the department.

a. Notwithstanding any provisions of this chapter to the contrary, the commissioner may determine that the public interest will be best protected by the department providing loading and/or unloading services in the market. Such determination may also be made: (i) in the event that suspensions or revocations of unloading business licenses or loading business licenses have resulted in an insufficiency of such services in the market area; or (ii) following the review of licensing proposals to conduct an unloading business made pursuant to section 22-204 of this chapter or of licensing proposals to conduct a loading business made pursuant to section 22-206 of this chapter, based upon a finding that there are an insufficient number of business entities submitting proposals for unloading or loading licenses, as the case may be, (1) whose principal or principals meet the requirements of good character, honesty and integrity set forth under this chapter or any rules promulgated pursuant thereto; or (2) which are able to provide unloading or loading services, as the case may be, in a manner consistent with the safe, lawful, orderly and efficient operation of the market area at rates which are fair and reasonable to customers.

b. Where the commissioner has made a determination pursuant to this section, the department may provide unloading or loading services, as the case may be, within the market area. Such services shall be provided in accordance with all rules governing the conduct of unloading or loading services prescribed under section 22-205 and section 22-207 of this chapter, other than insurance and bonding requirements.

c. During any period in which the department provides services in the market area under this section, it shall be unlawful for any other person or business entity to provide or perform or offer to provide or perform the same or similar services in the market area; provide, however, that where the department does not provide all unloading or loading

services, as the case may be, in the market area, an unloading business or a loading business that possesses a valid license to conduct such business may continue to operate.

d. At any time following the commencement of a department service under this section, the commissioner may solicit interest in order to determine whether there are business entities interested in providing unloading or loading services, as the case may be, in the market area who meet the requirements of this chapter and can substitute for the services being provided by the department. The commissioner may thereupon issue a request for licensing proposals pursuant to the provisions of section 22-204 or section 22-206 of this chapter and issue a license pursuant to such sections. Notwithstanding the provisions of this subdivision, the commissioner may at any time during a period in which the department is proving services pursuant to this section consider an application for an unloading business and/or loading business license from a business entity interested in providing such service. This subdivision shall not apply when the department has determined, pursuant to the provisions set forth in subdivision g of section 22-206, that the department itself shall perform loading services on city owned property in the market area.

e. For the purposes of this section, services provided by the department shall include those services provided by a designee of the department, an entity under contract to the department, or by a combination thereof.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. b amended L.L. 28/1997 § 5, eff. May 16, 1997.

Subd. b amended L.L. 54/1995 § 3, eff. June 15, 1995.

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Administrative Code of the City of New York

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NYC Administrative Code 22-209

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-209 Wholesaler registration and stand permits required.

a. It shall be unlawful for any business entity to conduct a wholesale seafood business in the fulton fish market distribution area without having first registered with and obtained a registration number from the commissioner. A registration application shall be submitted by a wholesale seafood business upon a form prescribed by the commissioner containing such information as the commissioner shall require by rule and shall be signed by all the principals of such wholesaler. A registration number shall not be transferable. A wholesaler shall not sublease or assign to another wholesaler the premises, or any portion thereof with respect to which a wholesaler has registered his or her wholesale seafood business, unless such proposed sublessee or assignee has registered with and obtained a wholesaler registration number from the commissioner. A wholesale seafood business shall, in accordance with rules promulgated by the commissioner pursuant to section 22-223 of this chapter, inform the commissioner of any change in the ownership composition of such business, or of the addition or deletion of any principal at any time subsequent to registration.

b. (i) Notwithstanding any provision of this chapter, the commissioner may, when there is reasonable cause to believe that any or all of the principals, employees or agents of a wholesaler lack good character, honesty and integrity, require that any or all of such principals be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter. The commissioner may thereafter, after notice and the opportunity to be heard, refuse to register such wholesaler for the reasons set forth in subdivision b of such section.

(ii) If at any time subsequent to the registration of a wholesaler, the commissioner has reasonable cause to believe that any or all of the principals, employees or agents of such wholesaler do not possess good character, honesty and integrity, the commissioner may require that any or all of such principals be fingerprinted and provide the

background information required by subdivision a of section 22-216 of this chapter and may, after notice and the opportunity for a hearing, revoke the registration of such wholesaler for the reasons set forth in subdivision b of such section.

c. No wholesaler shall place seafood on the street without a stand permit issued by the commissioner pursuant to this chapter. A stand permit shall not be transferable. Except where the occupancy of a city street under a stand permit is authorized under the terms of a lease with the city of adjacent premises, the commissioner may set a charge to a wholesaler for such occupancy under a stand permit calculated upon the square footage of the area authorized to be used in such permit.

d. A wholesaler shall not allow any other person to place seafood in the space for which such stand permit has been issued, except that a wholesaler may, on a temporary basis, permit the use of such space by another registered wholesaler who has received a shipment of seafood that cannot be accommodated in the space from which such registered wholesaler operates. No fee may be charged for such temporary use and any such use shall be reported as soon as is practicable to the market manager in accordance with rules promulgated by the commissioner pursuant to this chapter.

e. Notwithstanding the provisions of subdivisions c and d of this section, the holder of a stand permit may, after having first obtained the prior written approval of the commissioner, allow no more than one other registered wholesaler at any one time to place seafood on other than a temporary basis in up to forty-nine percent of the space for which such stand permit was issued. The holder of such permit may charge a fee for the use of such space. Such fee shall be calculated by multiplying the charge paid by the permit holder to the city for such permit by the ratio of the amount of space being used to the amount of space for which such permit was issued and the ratio of the time for which such space will be used to the period of time for which such permit was issued; except that a holder of a stand permit may charge a fee exceeding the charge based on such calculation, provided that the holder of such permit shall remit to the city an amount equal to seventy-five percent of the difference between the actual fee charged and the charge that would result from such calculation. A copy of the written agreement allowing the use of such space shall be filed with the market manager. Such agreement shall specify the amount of space and the period for which use of such space is authorized and the fee being charged.

f. A stand permit shall cease to be valid upon the expiration, revocation or during a period of suspension of the registration of the wholesale seafood business to which such stand permit has been issued. However, where the holder of a stand permit has, pursuant to the provisions of subdivisions d or e of this section, allowed another registered wholesaler to use a portion of the space for which such permit was issued such other registered wholesaler shall be permitted to continue to conduct business in such space during such period of suspension.

g. The market manager shall maintain and publish a list of all wholesalers in the market area who are registered with the market manager and who possess stand permits together with the registration numbers of such wholesalers and the numbers of such permits. The market manager shall make such list available to suppliers, shippers and truckers and shall, upon request, verify to suppliers, shippers and truckers whether such business entity is currently registered with the commissioner and/or possesses a valid stand permit.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. c amended L.L. 54/1995 § 1, eff. June 15, 1995.

Subds. d, e, f added L.L. 54/1995 § 1.

Subd. g relettered (former subd. d) L.L. 54/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-210

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-210 Conduct of wholesale seafood businesses.

The commissioner may establish by rule such measures as he or she deems necessary and appropriate to ensure the orderly and lawful conduct of wholesale seafood businesses in the market area, including but not limited to: (i) designation of the city-owned property within the market area upon which a wholesale seafood business may be conducted pursuant to a lease or occupancy permit; (ii) requirements that wholesalers maintain and supply their registration numbers and stand permit numbers to suppliers and shippers of seafood; (iii) requirements for the disposal of waste and other sanitary measures; (iv) requirements that wholesalers comply with applicable federal, state and local laws, rules and regulations regarding the handling of seafood; (v) appropriate insurance and bonding requirements; and (vi) provisions prescribing maintenance and availability of records for inspection by the commissioner or the market manager pertaining to, without limitation, the purchase, receipt, sale and delivery of seafood and the verification of ownership interests of the wholesale business, its principals, employees and agents.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-211

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-211 Registration required for seafood delivery business.

a. It shall be unlawful to conduct a seafood delivery business in the fulton fish market distribution area without having first registered such business with the commissioner and obtained a registration number from the commissioner. A registration application shall be submitted by a seafood delivery business upon a form prescribed by the commissioner containing such information as the commissioner shall require by rule and shall be signed by all the principals of such seafood delivery business. The market manager may require that seafood deliverers affix a sticker or decal containing such registration number to their delivery vehicles. A seafood delivery registration number or sticker or decal shall not be transferable.

b. (i) Notwithstanding any provision of this chapter, the commissioner may, when there is reasonable cause to believe that any or all of the principals, employees or agents of a seafood deliverer lack good character, honesty and integrity, require that any or all of such principals be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-216 of this chapter, and may, after notice and the opportunity to be heard, refuse to register such seafood deliverer for the reasons set forth in subdivision b of such section.

(ii) If at any time subsequent to the registration of a seafood deliverer, the commissioner has reasonable cause to believe that any or all of the principals, employees or agents of a seafood deliverer lacks good character, honesty and integrity, the commissioner may require that any or all of such principals be fingerprinted and provide the background information required by subdivision a of section 22-216 of this chapter and may, after notice and the opportunity for a hearing, revoke the registration of such seafood deliverer for the reasons set forth in subdivision b of such section.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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Administrative Code of the City of New York

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NYC Administrative Code 22-212

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-212 Conduct of seafood delivery business.

The commissioner may establish by rule such measures as he or she deems appropriate and necessary to ensure the orderly conduct of seafood delivery businesses in the fulton fish market distribution area. Such measures may include, but not be limited to: (i) the designation of an area or areas in which seafood delivery trucks may park while picking up seafood in the market area; (ii) requirements that seafood delivery businesses demonstrate compliance with applicable vehicle registration, insurance and inspection requirements; (iii) requirements that seafood delivery businesses comply with applicable federal, state and local laws, rules, and regulations regarding the handling of seafood; (iv) appropriate insurance and bonding requirements; and (v) provisions prescribing maintenance and availability of records for inspection by the market manager pertaining to, without limitation, the receipt and delivery of seafood and the verification of ownership interests of a seafood delivery business, its principals and employees and agents.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-212.1

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-212.1 Registration of labor union and labor organization.

A labor union or labor organization representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in the market shall register with the commissioner and shall be subject to the provisions of section 22-264 of this title.

HISTORICAL NOTE

Section added L.L. 28/1997 § 9, eff. May 16, 1997.

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NYC Administrative Code 22-213

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-213 Fees and terms of licenses and registrations.

a. The commissioner shall by rule establish fees for the issuance and renewal of registrations and of licenses pursuant to this chapter in amounts sufficient to compensate the city for the administrative expense of issuing or renewing a registration or license and the expense of inspections and other activities related thereto. A license issued pursuant to this chapter shall be valid for two years. A business entity that is licensed pursuant to this chapter shall provide the commissioner in a form prescribed by the commissioner pursuant to rules promulgated under this chapter with notice of at least ten business days of the proposed addition of a new principal to such business entity. The commissioner may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the commissioner determines within such period, based on information available to him or her, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review under section 22-216 of this chapter. The licensee shall be afforded an opportunity to demonstrate to the commissioner that the addition of such new principal pending completion of review under section 22-216 of this chapter would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the commissioner determines that such principal lacks good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest; or discontinues his or her involvement in the business of such licensee, as the case may be, within the time period prescribed by the commissioner.

b. The commissioner shall be authorized to extend the term of the license for an additional one year period at his or her discretion and shall establish an additional fee therefor.

c. A registration issued pursuant to this chapter shall be valid for two years.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a amended L.L. 54/1995 § 4, eff. June 15, 1995.

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NYC Administrative Code 22-214

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-214 Liability for violations.

a. A business entity required by this chapter to be licensed by or registered with the commissioner pursuant to this chapter shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant thereto committed by any of its principals, employees or agents.

b. In any civil action or administrative proceeding against an employee of a business entity for a violation of this chapter or any rules promulgated pursuant thereto, it shall be an affirmative defense that the employee was acting within the scope of his or her employment when the action or actions constituting the alleged violation were committed and that such action or actions were committed pursuant to an instruction given to such employee by such business entity or by any principal, officer or agent of such business entity, provided, however, that this subdivision shall not be applicable to a violation of section 22-203, subdivision e of section 22-204, subdivision e of section 22-206, subdivision c of section 22-208, paragraphs ii and iii of subdivision b of section 22-215 or subdivision b of section 22-219 of this chapter and any rules promulgated pursuant thereto.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a so designated L.L. 15/2000 § 9, eff. Mar. 29, 2000.

Subd. b added L.L. 15/2000 § 9, eff. Mar. 29, 2000.

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NYC Administrative Code 22-215

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-215 Penalties.

a. Except as otherwise provided in subdivision b of this section, any person who violates any provision of this chapter or any of the rules promulgated pursuant thereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

b. (i) Any person who violates subdivision a of section 22-204, subdivision a of section 22-206, subdivision c of section 22-208 or section 22-219 of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both; and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

(ii) Any person who interferes or attempts to interfere with the conduct of loading or unloading services authorized pursuant to this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each such violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each such violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board for each day that the violation continues.

(iii) Any person who intentionally or without permission of the owner or other person having lawful possession

of such property destroys or damages property or equipment associated with loading or unloading services authorized pursuant to this chapter shall be guilty of a misdemeanor and, upon conviction thereof, be punished for each such violation by a criminal fine of not more than ten thousand dollars or by imprisonment not exceeding six months, or both and any such person shall also be subject to a civil penalty of not more than five thousand dollars for each such violation to be recovered in a civil action brought in a court of competent jurisdiction or an administrative proceeding before the environmental control board.

(iv) The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any violation of this chapter and for civil penalties.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a amended L.L. 54/1995 § 5, eff. June 15, 1995.

Subd. b par (i) amended L.L. 54/1995 § 5, eff. June 15, 1995.

Administrative Code of the City of New York

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NYC Administrative Code 22-216

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-216 Issuance and refusal to issue licenses, registrations and class A and class B photo identification cards.

a. The commissioner shall require that an applicant submitting a proposal to conduct an unloading business or a loading business, or seeking a temporary license to conduct such a business, and an applicant for a class A photo identification card shall: (i) be fingerprinted by a person designated for such purpose by the commissioner or the department of investigation and pay a fee to be submitted to the division of criminal justice services and/or the federal bureau of investigation for the purposes of obtaining criminal history records; and (ii) provide to the commissioner, upon a form prescribed by the commissioner and subject to such minimum dollar thresholds and other reporting limitations as the commissioner may establish by rule those of the following items that the commissioner may determine are necessary and appropriate to determine the good character, honesty and integrity of applicants for the type of license, registration or photo identification card for which application is being made: (a) a listing of the names, and home and business addresses and telephone numbers of any person having a beneficial interest in the applicant, and the amount and nature of such interest; (b) a listing of the names, and home and business addresses of all principals of the applicant; (c) a listing of the amounts in which the applicant is indebted, including mortgages on real property, and the names, and home and business addresses of all persons to whom each such debt is owed; (d) a listing of the applicant's real property holdings, mortgages or other interests in real property other than a primary residence and the names, and home and business addresses of all co-owners of such interest; (e) a listing of all loans and instruments of indebtedness held by the applicant, other than the mortgage or other interest in real property specified in clause (d) of this paragraph, the amount of such debt, and, for each such debt, the names, and home and business addresses of such debtors; (f) the name and address of any business in which the applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (g) the names, and home and business addresses of all persons or entities from whom

the applicant has received gifts valued at more than one thousand dollars in any of the past three years, and the names, and home and business addresses of all persons or entities excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code to whom such applicant has given gifts of such value in any of the past three years; (h) a listing of all criminal convictions, in any jurisdiction, of the applicant; (i) a listing of all pending civil or criminal actions to which such applicant is a party and has been served; (j) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of conditions of his or her license or of laws, rules or regulations relating to the conduct of the applicant's business; (k) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency of which the applicant has or should have knowledge, in the five year period preceding submission of the application, wherein such applicant has: (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such investigation; (l) a certification that the applicant has paid all federal, state, and local income and business taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding or otherwise pursuant to applicable procedures of the taxing authority; and (m) such additional information concerning good character, honesty and integrity that the commissioner may deem appropriate and reasonable. The commissioner may require that applicants pay such fees to cover the expenses of the background investigations provided for in this subdivision as are set forth in the rules promulgated pursuant to section 22-223 of this chapter.

b. The commissioner may, after notice and the opportunity to be heard, refuse to consider a licensing proposal from, or refuse to issue a license to, an unloading or loading business or a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when any of the principals of such business or such person lacks good character, honesty and integrity or may defer the decision whether to issue such license or photo identification card or to consider such proposal when there is a pending indictment or civil or criminal action or administrative proceeding as provided in paragraph (ii) of this subdivision. Such notice shall specify the reasons for such refusal or deferral. In making such determination, the commissioner may consider, but not be limited to: (i) failure by the applicant to provide truthful information in connection with the application; (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license or photo identification card, or a pending civil action or administrative proceeding to which such applicant is a party and which relates to the fitness to conduct the business or perfrom the work for which the license or photo identification card is sought, in which cases the commissioner may defer consideration of a proposal or application until a decision has been reached by the court or administrative tribunal before which such action or proceeding is pending, unless such applicant demonstrates to the commissioner that such pending action or proceeding should not be the basis for deferral of the license or photo identification card or consideration of the proposal; (iii) conviction of such applicant for a crime which, under article twenty-three-A of the correction law, would provide a basis for the denial of a license to conduct a business in the market area; (iv) commission of a racketeering activity or association with a person who has been convicted for a racketeering activity when the applicant knew or should have known of such conviction, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. §1961 et seq) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (v) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person; or (vi) failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction and enforcement of such judgment has not been stayed.

c. The factors set forth in subdivision b of this section shall also be grounds for the commissioner, pursuant to sections 22-209 or 22-211 of this chapter, to refuse to register, or to suspend or revoke the registration of, a wholesaler or a seafood deliverer; and to refuse to issue a photo identification card to, or to suspend or revoke the photo

identification card of, a principal, employee or agent of a wholesaler or seafood deliverer.

d. The commissioner may require that an applicant submitting a licensing proposal for any license required pursuant to this chapter or an application for registration as a wholesaler or seafood deliverer shall submit such information regarding the applicant's business as the commissioner shall require in order to demonstrate the financial responsibility to conduct the business for which such license or registration is required, and may refuse to issue a license or registration to any applicant who has not, in the commissioner's determination, demonstrated such financial responsibility.

e. The commissioner may refuse to issue a license to, or consider a proposal from, the business of an applicant or issue a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when such applicant or such person has knowingly failed to provide the information and/or documentation required by the request for licensing proposals or application or who has otherwise failed to demonstrate eligibility for such license or photo identification card under this chapter or any rules promulgated pursuant thereto.

f. The commissioner may refuse to issue a license to, or consider a proposal from, the business entity of an applicant, or issue a class A photo identification card to a person required by subdivision a of section 22-203 of this chapter to possess such identification card when (i) the business entity of such applicant or such applicant was previously issued a license or class A photo identification card under this chapter and such license or card was revoked pursuant to the provisions of this chapter or any rules promulgated pursuant thereto; or (ii) such applicant has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license pursuant to this chapter or any rules promulgated pursuant thereto.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Section heading amended L.L. 54/1995 § 6, eff. June 15, 1995.

Subd. a clause (i) amended L.L. 28/1997 § 6, eff. May 16, 1997.

Subd. c amended L.L. 28/1997 § 7, eff. May 16, 1997.

Subd. d amended L.L. 15/2000 § 10, eff. Mar. 29, 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-217

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-217 Revocation or suspension of license, registration or photo identification card.

a. In addition to the penalties provided in section 22-215 of this chapter, the commissioner may, after due notice and opportunity for a hearing, take action pursuant to subdivisions b and c of this section.

b. The commissioner may revoke or suspend a license or class A photo identification card issued pursuant to the provisions of this chapter when the licensee and/or a principal, employee or agent of a licensee or a person to whom such photo identification card has been issued: (i) has been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) has repeatedly failed to obey lawful orders of the market manager or his or her staff; (iii) has failed to pay any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (iv) has been found in violation of any laws prohibiting deceptive, unfair, or unconscionable trade practices, or has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of seafood; (v) whenever, in relation to an investigation conducted pursuant to this chapter, the commissioner determines, after consideration of the factors set forth in subdivision b of section 22-216 of this chapter, that the licensee, any principal of the licensee or a person required to possess a class A photo identification card lacks good character, honesty and integrity; (vi) whenever there has been any false statement or misrepresentation as to a material fact in the application or accompanying papers upon which the issuance or renewal of the license or photo identification card was based; or (vii) whenever the licensee has failed to notify the market manager of any material change, as required by rules promulgated by the commissioner pursuant to section 22-223 of this chapter, in the information required to be provided on the application for such license, or of the arrest or criminal conviction of the licensee or any of the principals of the licensee, or of the arrest or criminal conviction of any employees or agents of the licensee of

which the licensee had knowledge or should have known.

c. The commissioner may revoke or suspend a registration or a class B photo identification card issued pursuant to this chapter when the person to whom such registration or card was issued: (i) has been found to be in persistent or substantial violation of this chapter or any rules promulgated pursuant thereto; (ii) has repeatedly failed to obey lawful orders of the market manager or his or her staff; (iii) whenever there has been any false statement or misrepresentation as to a material fact in the papers upon which registration or issuance of the photo identification card was based; (iv) has failed to pay any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in violation of any laws prohibiting deceptive, unfair, or unconscionable trade practices, or has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of seafood; (vi) has been found in violation of any city, state or federal law, rule or regulation when such violation is inimical to the purpose and intent of this chapter; or (vii) has failed to notify the commissioner of any material change, in the information submitted in the application for registration, or of the arrest or criminal conviction of the registrant or any of the principals of the registrant, or of the arrest or criminal conviction of any employees or agents of the registrant of which the registrant had knowledge or should have known.

d. An order of suspension pursuant to this section shall specify the period during which such suspension shall remain in effect; such period shall be reasonable in relationship to the violation or violations underlying the suspensions.

e. For purposes of this section: (i) "persistent" shall mean three or more violations within a six month period; and (ii) "substantial violation" shall mean a violation which has a bearing on the continued fitness of a licensee, registrant or holder of a photo identification card to operate a business or work in the market area.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a amended L.L. 54/1995 § 7, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-218

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-218 Emergency suspension of license or registration and photo identification card.

Notwithstanding any other provision of this chapter or rules promulgated pursuant thereto, the commissioner may, if he or she determines that the conduct of an unloading business, a loading business, a wholesale seafood business or a seafood delivery business, or the presence of any person in the market area creates an imminent danger to life or property, immediately suspend a license, registration or a photo identification card without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to a deputy commissioner of the department who shall determine such appeal forthwith. In the event that the deputy commissioner upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commissioner shall issue a final determination no later than four business days following the conclusion of such hearing; and provided further that the commissioner may, upon application by a business entity whose license or registration has been suspended, permit such business entity to remain in the market area for such time as is necessary to allow for the expeditious sale, consignment or removal of a perishable product if, in the commissioner's best judgment, such permission is consistent with the safety of the market area.

HISTORICAL NOTE

Section amended L.L. 54/1995 § 8, eff. June 15, 1995.

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-219

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-219 Surrender of license and photo identification card and cessation of use of registration number.

a. Suspension or revocation of a license or the discontinuance of business operations in the market area by a license shall require the immediate surrender to the market manager of the license and all photo identification cards issued for principals, employees and/or agents of the licensee.

b. Suspension or revocation of a registration or the discontinusance of business operations in the market area by a registrant shall require the immediate cessation of use of a registration number and the immediate surrender of all decals, stickers and photo identification cards issued to such registrant and the principals, employees and/or agents of the registrant.

c. A person who discontinues his or her employment in the market area shall immediately surrender his or her photo identification card to the market manager.

d. Violation of the provisions of subdivisions b or c of this section where such license or registration is under suspension may result in revocation of the license or registration or criminal or civil penalties as provided in subdivision b of section 22-215 of this chapter, or both.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-220

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-220 Seizure; forfeiture.

a. Any police officer or authorized officer or employee of the department may, upon service of a notice of violation or criminal summons supon the owner or operator of a vehicle or other property or equipment seize such vehicle or such other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter. Any vehicle, property or equipment seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. Where a notice of violation has been served, a hearing to adjudicate the violation underlying the seizure shall be held before the environmental control board within five business days after the seizure and such board shall render a decision within five business days after the conclusion of the hearing. Where a criminal summons has been served, a hearing to adjudicate the violation underlying the seizure shall be held before a court of competent jurisdiction. In the event that such court or the environmental control board determines that there has been no violation, the vehicle, property or equipment that was seized shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

b. Except as otherwise provided in subdivision a of this section or where notice has been given that forfeiture will be sought pursuant to paragraph (ii) of subdivision e of this section, a vehicle or other property or equipment seized pursuant to subdivision a of this section shall be released upon payment of a fine or civil penalty imposed for the violation underlying the seizure and the cost of removal and storage as set forth in the rules of the department. Where an action or a proceeding relating to the violation underlying the seizure is pending in a court of competent jurisdiction or

an administrative proceeding before the environmental control board, the vehicle or other property or equipment shall be released upon posting of a bond or other form of security sufficient to cover the maximum fine or civil penalty which may be imposed for such violation and the costs of removal and storage.

c. Where a court of competent jurisdiction or the environmental control board makes a finding that the vehicle or other property or equipment has not been used in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter, the vehicle or other property or equipment shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

d. Any vehicle or other property or equipment that has not been claimed by the owner within ten business days after mailing by first class mail to such owner of notice of a determination by a court of competent jurisdiction or by the environmental control board that there has been no violation or that the vehicle or other property or equipment was not used in connection with a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter shall be deemed by the department to be abandoned. Any vehicle unclaimed under the provisions of this subdivision shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Property or equipment other than a vehicle shall be disposed of by sale at public auction following notice by publication in the city record describing such property or equipment not less than ten business days prior to such sale. Such notice shall provide that the owner may reclaim such property or equipment until a date that shall be not sooner than ten business days from the date the notice is published.

e. (i) In addition to any other fines, penalties, sanctions or remedies provided for in this chapter, a vehicle or other property or equipment which has been seized pursuant to subdivision a of this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court of competent jurisdiction or the environmental control board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter.

(ii) A forfeiture proceeding may not be commenced more than ten business days after the receipt of a request by the owner for return of the vehicle, other property or equipment. If a forfeiture proceeding is not commenced within such ten day period, the property shall be returned to the owner upon payment of the fine or civil penalty imposed and the costs of removal and storage. A vehicle or other property or equipment which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

(iii) Notice of the institution of the forfeiture action shall be served by first class mail on: (a) an owner of a vehicle at the address set forth in the records maintained by the department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration; (b) all persons holding a security interest in such vehicle which security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in New York state, all persons who hold a security interest in such vehicle which security interest has been filed with such state of registration and which persons are made known by such state to the department at the address provided by such state of registration; and (c) for property and equipment other than a vehicle, by publication in the city record describing such property or equipment and by notice served by first class mail to the address of the person from whom such property or equipment was seized. Where such person is other than the owner of such property or equipment, notice shall be served by first class mail both to such person and to the owner of such property or equipment where such owner is known, or can be reasonable effort, by ascertained or, where such owner is not known or cannot by reasonable effort be ascertained, to the employer of the person from whom the property or other equipment was seized. Notice shall also be served by first class mail to any person who holds a security interest in such property or equipment when the name and address of such person has been provided by the owner of the property or equipment or

other person from whom the property or equipment was seized, or is otherwise known or can, by reasonable effort, be ascertained.

(iv) Any owner who receives notice of the institution of a forfeiture action who wishes to claim an interest in the vehicle or other property or equipment subject to forfeiture may assert a claim in such action for the recovery of the vehicle or other property or equipment or satisfaction of the owner's interest in such vehicle or other property or equipment. Any person with a security interest in such vehicle or property or equipment who receives notice of the institution of the forfeiture action who claims an interest in such vehicle or other property or equipment may assert a claim in such action for satisfaction of such person's security interest.

(v) Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in the vehicle or other property or equipment pursuant to paragraph (iv) of this subdivision, where such person establishes that: (a) the use of such vehicle, property or equipment in connection with an act constituting a violation of subdivision a of section 22-204, subdivision a of section 22-206 or subdivision c of section 22-208 of this chapter that was the basis for seizure occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by failing to do all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle, property or equipment in order to avoid the forfeiture; or (b) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, property or equipment while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

(vi) The department, after judicial determination of forfeiture, shall, at its discretion, either: (a) retain such vehicle, property or equipment for the official use of the city; or (b) by public notice of at least five days, sell such forfeited vehicle, property or equipment at public sale. The net proceeds of any such sale shall be paid into the generla fund of the city.

(vii) In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest in the forfeited vehicle, property or equipment, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle, property or equipment after deduction of the lawful expenses incurred by the city, including the reasonable costs of removal and storage between the time of seizure and the date of sale.

(viii) For purposes of this section, the term "owner" of a vehicle shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eight of the vehicle and traffic law. The term "owner" of other property or equipment subject to seizure or forfeiture pursuant to this section shall mean a person who demonstrates ownership of such property or equipment to the satisfaction of the commissioner.

(ix) For purposes of this section, the term "security interest" in a vehicle shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law. "Security interest" in other property or equipment shall mean an interest reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a amended L.L. 54/1995 § 9, eff. June 15, 1995.

Subd. d amended L.L. 54/1995 § 10, eff. June 15, 1995.

Subd. e par (i) amended L.L. 54/1995 § 11, eff. June 15, 1995.

Subd. e par (v) amended L.L. 54/1995 § 12, eff. June 15, 1995.

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NYC Administrative Code 22-221

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-221 Business address.

Each business licensed or registered with the commissioner pursuant to this chapter shall maintain a business address in New York city where notices may be delivered and legal process served and shall provide the commissioner with such address and shall also designate an individual of suitable age and discretion at such address as an agent for service of legal process.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-222

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-222 Other wholesaler registration and seafood distribution areas.

a. It shall be unlawful for any business entity to conduct a wholesale seafood business outside the fulton fish market distribution area without having first registered and obtained a registration number from the commissioner. A registration application shall be upon a form and contain such information as the commissioner shall specify by rule and shall be signed by all the principals of such wholesaler. A registration number shall not be transferable. The market manager shall maintain a list of all wholesalers who are registered pursuant to this section together with the registration numbers of such wholesalers and shall make such list available to suppliers, shippers and truckers and shall, upon request, verify to suppliers, shippers and truckers whether a wholesaler is currently registered with the commissioner.

b. (i) Upon a finding by the commissioner that there is reasonable cause to believe that there exists or that there is the potential for corrupt, deceptive or unconscionable business practices in an area or areas within the city outside the fulton fish market distribution area where one or more wholesale seafood businesses has been established and that such business practices will have an effect inimical to the purposes of this chapter, the commissioner shall declare such area to be a seafood distribution area, and all unloading businesses, loading businesses, wholesale seafood businesses and seafood delivery businesses which operate within such area, and the employees and/or agents of such businesses, shall be subject to all the provisions of this chapter; provided that when such provisions are applied to a seafood distribution area, the terms "fulton fish market distribution area" and "market area" as contained therein shall be deemed to include such seafood distribution area.

(ii) The commissioner shall by rule establish the boundaries of such seafood distribution area, based on determination of the area in which activities related to the distribution of seafood take place, and may promulgate rules

for the orderly and lawful conduct of business in such area in accordance with the provisions of sections 22-205, 22-207, 22-210 and 22-212 of this chapter.

(iii) No enforcement action shall be taken on or after the date on which the boundaries of a seafood distribution area have been established pursuant to paragraph (ii) of this subdivision against (1) any business entity or person required to be licensed and/or to possess a class A photo identification card pursuant to this section unless and until one of the following has occurred: (aa) such business entity or person has failed to apply for such license or class A photo identification card by the date specified by the commissioner; (bb) any of the principals of such business entity or such person has failed to submit to fingerprinting or to submit the background information required pursuant to section 22-216 of this chapter; or (cc) such license or photo identification card has been denied by the commissioner; (2) against any wholesaler registered pursuant to subdivision a of this section whose principals have been required by the commissioner to submit to the fingerprinting and disclosure requirements of section 22-216 of this chapter unless and until one of the following has occurred (aa) the principals of such wholesaler have failed to submit to fingerprinting or to submit the required background information; or (bb) the commissioner has revoked the registration of such wholesaler; (3) against any person required to possess a class B photo identification card unless such person has failed to apply for such class B photo identification card by the date specified by the commissioner; or (4) against any person required to possess a class B photo identification card who has been required by the commissioner to submit to the fingerprinting and disclosure requirements of section 22-216 of this chapter unless and until one of the following has occurred: (aa) such person has failed to submit to fingerprinting or to submit the required background information by the date specified by the commissioner; or (bb) the commissioner has denied the application for such class B photo identification card.

c. Notwithstanding the provisions of subdivision b of this section, the commissioner may determine that licenses to conduct unloading businesses in a seafood distribution area may be appropriately issued without application of the provisions set forth in subdivisions b through f of section 22-204 of this chapter, and that licenses to conduct loading businesses in a seafood distribution area may be appropriately issued without application of the provisions set forth in subdivisions b through h of section 22-206 of this chapter. Where the commissioner has made such a determination, all other provisions of this chapter including, but not limited to, the requirements for licenses, the issuance of licenses and suspensions and revocations of licenses shall apply. For the purposes of this subdivision: (i) the term "applicant submitting a proposal" as such term appears in section 22-216 of this chapter shall, in the event of such determination, be deemed to mean an applicant for an unloading license or a loading license in a seafood distribution area; and (ii) "loader" or "loading business" shall mean a business entity that has designated areas in which loading services take place or that operates primarily to provide loading services for purchasers of fish in a seafood distribution area. Such term shall not include a business entity that only incidentally or occasionally provides such services to such purchasers.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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NYC Administrative Code 22-223

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-223 Rules.

The commissioner may promulgate such rules as he or she may deem necessary to effectuate the provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-224

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-224 Investigations by the department of investigation.

The commissioner of the department of investigation may conduct a study or investigation of any matter arising under the provisions of this chapter, including but not limited to the investigation of the information required to be submitted by applicants for licenses pursuant to subdivision a of section 22-216 of this chapter or when such information is required by the commissioner to be provided pursuant to subdivision b of section 22-209 or subdivision b of section 22-211 of this chapter.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-225

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-225 Meetings.

On a regular basis, but not less often than every three months, and at such other times as may be needed, the market manager shall conduct a meeting which shall be open to all persons licensed, registered or issued photo identification cards pursuant to the provisions of this chapter and their representatives. Such meetings shall be for the purpose of presentations and discussions with respect to activities and operations within the market area and/or other seafood distribution areas. All such meetings shall be held within the market area or other seafood distribution area or at a suitable location proximate to such area and at convenient times upon reasonable advance notice.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

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***** Current through December 2009 ****

NYC Administrative Code 22-226

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-A FULTON FISH MARKET DISTRIBUTION AREA AND OTHER SEAFOOD DISTRIBUTION AREAS

§ 22-226 Reporting requirements.

a. No later than one week following the submission of the mayor's management report, the commissioner shall submit to the council a report detailing the department's activities pursuant to this chapter. Except as provided in any paragraph of this section, this report shall provide information for the period covered by the mayor's management report. The report required by this section shall at a minimum include:

i. the number of criminal acts and violations of this subchapter reported to have occurred within the fulton fish market distribution area and each other seafood distribution area. Such acts and violations shall include, without limitation (aa) acts of physical violence and threats of such violence, (bb) acts of damage to property and threats of such acts and (cc) thefts or threats of such thefts;

ii. the number of referrals to a state or federal prosecutor made by the commissioner and/or market manager with respect to the items contained in paragraph one of this section, the number of such referrals for which a prosecution was brought and the results of any such prosecutions;

iii. a current listing of the names and business addresses of unloading and loading business licensees and wholesale seafood and seafood delivery business registrants;

iv. the number of applications for each such license or registration that were denied with a statement of the reasons for denials and the number of pending applications for each;

v. the number of class A and class B photo identification cards which have been issued, respectively, the number of applications for each such card which have been denied with a statement of the reasons for denials and the number of pending applications for each such card;

vi. the number of unloading and loading business licenses, wholesale and seafood delivery business registrations and class A and class B photo identification cards that have been suspended or revoked under sections 22-217 or 22-218 of this chapter, respectively, a statement of the reasons for such actions and the average duration of such suspensions;

vii. the number of principals of wholesalers and seafood delivery businesses and holders of class B photo identification cards, respectively, to whom the provisions of section 22-216 of this chapter have been applied and the result under section 22-217 of this chapter;

viii. the number of vehicles, property and equipment, respectively, which have been seized under this chapter and the number forfeited, with a statement of the reasons for such seizures and forfeitures;

ix. the amounts, by category, of all revenues relating to implementation of this chapter to which the city is entitled, the amounts actually collected and the reasons for any difference; and

x. the amounts, by category, of all expenditures relating to enforcement of the provisions of this chapter.

b. Unless otherwise provided, all items required to be reported pursuant to paragraphs i through x of subdivision a of this section shall be reported separately for the fulton fish market distribution area and for each other seafood distribution area.

HISTORICAL NOTE

Section added L.L. 50/1995 § 1, eff. June 15, 1995.

Subd. a open par amended L.L. 28/1997 § 10, eff. May 16, 1997.

Subd. a open par amended L.L. 54/1995 § 13, eff. June 15, 1995.

Subd. a par (iii) amended L.L. 54/1995 § 14, eff. June 15, 1995.

Subd. b amended L.L. 54/1995 § 15, eff. June 15, 1995.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-251

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-251 Definitions.

For the purposes of this chapter, the following terms shall have the following meanings: a. "Applicant" shall mean, if a business entity submitting an application for registration, the entity and all the principals thereof; if an individual submitting an application for a photo identification card, such individual.

b. "Commissioner" shall mean the commissioner of the New York city department of small business services.

c. "Department" shall mean the New York city department of small business services.

d. "Employee" shall mean a person who works or who expects to work in a market on a full-time, part-time or seasonal basis for a wholesaler or market business, but shall not include persons hired to work on an occasional basis.

e. "Market business" shall mean any business located or operating within a market that is engaged in providing goods or services to wholesalers or retail purchasers in such market that are related to the conduct of a wholesale business or the purchase of food or related agricultural products or horticultural products by retailers or others, or that receives such goods within a market for delivery, forwarding, transfer or further distribution outside such market. "Market business" shall include, but not be limited to, the provision of security services within a market, the provision of services related to the collection of fees for entrance into a market and parking, the supply of ice, and the unloading, loading, transfer or distribution of food or related agricultural products or horticultural products. The term "market business" shall not include a business located or operating within a market the main offices of which are located outside a market and which (i) supplies the food or related agricultural products or products sold by wholesalers or is engaged in the trucking or shipping thereof to the market or (ii) supplies electrical, plumbing, construction, renovation or other

similar services to wholesalers in the market and does not earn fifty percent or more of its income from such wholesalers. Notwithstanding any other provision of this chapter to the contrary, the term "market business" shall also mean any business located and operating within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of chapter 1-A of this title that is directly engaged in providing goods or services to wholesalers in such area or areas, which goods or services are related to the conduct of a wholesale business or the purchase of seafood products by retailers or others therein or that receives goods for delivery, forwarding, transfer or further distribution outside the fulton fish market distribution area or other seafood distribution area. The term "market" shall, for purposes of the application of the provisions of this chapter which relate to "market businesses" in the fulton fish market distribution area or other seafood distribution area, mean such areas.

f. "Officer" shall mean any person holding an elected position or any other position involving participation in the management or control of a wholesale trade association or of a labor union or labor organization required to register pursuant to section 22-264 or section 22-265 of this chapter.

g. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer, director and stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Except as otherwise provided by the commissioner, where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such individual participates in the operation of or has a beneficial interest in such corporation and such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

h. "Public wholesale market" or "market" shall mean any building, structure or place owned by the city or located on property owned by the city or under lease to or in the possession of the city or any part of a street, avenue, parkway, plaza, square or other public place designated as a public market by resolution of the former board of estimate of the city or a local law enacted by the city council to be used or intended to be used for the wholesale buying, selling or keeping of food, flowers or ornamental plants and shall continue to be public property notwithstanding that such public wholesale market is operated pursuant to a lease or other agreement with a non-governmental entity; except that the term "public wholesale market" shall not, unless otherwise set forth in this chapter, include any building, structure or place within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of this code. For the purposes of this chapter, the term "public wholesale market" shall also include an area identified by rule of the commissioner that is in the vicinity of a designated public wholesale market where one or more wholesale businesses or market businesses operate. For the purposes of this chapter, the "place of business of a wholesale business or market business" shall mean any building, structure, stall or other area, or any part thereof, within a public wholesale market that is leased, operated, managed or used exclusively by such wholesale business or market business.

i. "Visitor" shall mean a person who is neither engaged in nor an employee of a wholesale business or market business in the market who wishes to enter or enters a public wholesale market.

j. "Wholesaler" or "wholesale business" shall mean any business engaged in selling food or related agricultural products or horticultural products at wholesale prices for resale by a wholesaler or retailer or for use by an institution or other similar establishment, whether or not such business also sells directly to the public, except that such terms as used in this chapter shall not include a "wholesaler" or "wholesale seafood business" as defined in section 22-202 of this code; provided, however, that a wholesale business to which customers do not regularly come to pick up purchases and that does not deal from such location primarily in perishable products shall not be subject, unless otherwise provided by rule of the commissioner, to the provisions of sections 22-252, 22-254 and 22-255 of this chapter.

k. "Wholesale trade association" shall mean an entity, the majority of whose members are wholesale businesses and/or market businesses, having as a primary purpose the promotion, management or self-regulation of a market or such wholesale businesses or market businesses within such market or the facilities utilized by such businesses, including, but not limited to a corporation, cooperative, unincorporated association, partnership, trust or limited liability partnership or company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes. The term "wholesale trade association" shall not include any entity the majority of whose members are primarily engaged in retail sales outside a pubic wholesale market.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

Subds. b, c amended L.L. 34/2002 § 17, eff. Nov. 7, 2002.

Subd. h amended L.L. 15/2000 § 1, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as

added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-252

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-252 Photo identification card required.

a. It shall be unlawful for any person to be an employee or a principal working in a wholesale business or market business in a market unless such person has obtained a photo identification card issued by the commissioner pursuant to the provisions of this chapter or for a person to work on an occasional basis in a market unless such person has obtained a day pass issued by the commissioner. The commissioner shall set forth by rule the number of occasions within a specified time period that shall constitute occasional work to meet unanticipated needs of businesses in the market and shall make reasonable provision to delegate authority for the issuance of day passes on a twenty-four hour basis to persons hired to work by wholesalers and market businesses on an occasional basis. A photo identification card shall be in the possession of an employee or principal at all times when such person is in the market and shall be produced upon demand by an authorized employee or agent of the department, the department of investigation or the police department. The commissioner shall make provision for temporary photo identification cards to be issued pending the processing of applications for permanent photo identification cards and for the expedited issuance of photo identification cards to family members of principals of a wholesaler or market business and others who work on a seasonal basis. A temporary identification card shall cease to be valid, and shall be returned to the department, upon the refusal to issue a photo identification card pursuant to subdivision d of this section or denial of registration to the business in which the person applying for such identification card is a principal or is employed.

b. A photo identification card shall identify the business of which the individual is a principal or by which he or she is employed and shall be non-transferrable. Upon a change in employment within a market, an individual shall inform the department and the department shall issue a photo identification card reflecting such changed employment.

c. An application for a photo identification card shall be submitted on a form prescribed by the commissioner

and shall contain such information as the commissioner shall determine is necessary to establish the identity and background of the applicant. A person required by this chapter to possess a photo identification card shall inform the commissioner of any subsequent material change in the information provided on such application, including but not limited to arrests and/or criminal convictions.

d. Notwithstanding any other provision of this section, where the commissioner has reasonable cause to believe that an applicant for a photo identification card lacks good character, honesty and integrity, the commissioner may require that such applicant be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-259 of this chapter. The commissioner may thereafter, after notice and opportunity to be heard, refuse to issue a photo identification card for the reasons set forth in subdivision b of such section.

e. If at any time subsequent to the issuance of a photo identification card, the commissioner has reasonable cause to believe that the holder thereof does not possess good character, honesty and integrity, the commissioner may require such person to be fingerprinted and to provide the background information required by subdivision a of section 22-259 of this chapter and may, after notice and opportunity to be heard, revoke such photo identification card for the reasons set forth in subdivision b of such section.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the

registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-253

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-253 Registration required for wholesalers and market businesses.

a. No person shall conduct a wholesale business or a market business in a public wholesale market unless such person has registered such business with the commissioner and has obtained a registration number for such business from the commissioner. Application for such registration shall be made upon a form prescribed by the commissioner containing such information as the commissioner shall determine appropriately identifies and demonstrates the fitness of the wholesale business or market business. A registration number shall not be transferable. A person conducting a wholesale business or a market business shall not sublease or assign to another person any portion of any premises in the market occupied or utilized by such business unless such proposed sublessee or assignee has registered with and obtained a registration number from the commissioner. The commissioner shall establish by rule a procedure for the preliminary review of registration applications for businesses not previously operating in a market that are considering the purchase of a wholesale business or a market business, and for the expedited completion of registration review upon entry into a purchase and sale agreement. A business required to register pursuant to this section shall inform the commissioner of any change in the ownership composition of the business, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted on the application for registration within thirty calendar days thereof.

b. (i) Notwithstanding any provision of this chapter, the commissioner may, when there is reasonable cause to believe that any or all of the principals of an applicant for registration lack(s) good character, honesty and integrity, require that such principal(s) be fingerprinted and provide to the commissioner the information set forth in subdivision a of section 22-259 of this chapter, and may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in subdivision b of such section.

(ii) If at any time subsequent to the registration of a wholesale business or market business, the commissioner has reasonable cause to believe that any or all of the principals of such wholesale business or market business do not possess good character, honesty and integrity, the commissioner may require that such principal(s) be fingerprinted and provide the background information required by subdivision a of section 22-259 of this chapter and may, after notice and the opportunity to be heard, revoke the registration of such wholesale business or market business for the reasons set forth in subdivision b of such section.

(iii) At any time subsequent to the conduct of an investigation of an applicant for registration or a registrant pursuant to paragraph (i) or paragraph (ii) of this subdivision that has produced adverse information, the commissioner may require as a condition of issuance or the continuance of a registration that the wholesale business or market business enter into a contract with an independent auditor approved or selected by the commissioner. Such contract, the cost of which shall be paid by the registrant, shall provide that the auditor investigate the activities of the wholesale business or market business with respect to compliance with the provisions of this chapter, other applicable federal, state and local laws and such other matters as the commissioner shall determine. The contract shall provide further that the auditor report the findings of such monitoring and investigation in a manner to be prescribed by the commissioner to the commissioner on a periodic basis.

(iv) A wholesale business or market business shall provide the commissioner with notice of at least ten business days of the proposed addition of a new principal to such business and shall provide the commissioner with such information concerning such proposed principal as is set forth in the rules promulgated by the commissioner pursuant to section 22-266 of this chapter. The commissioner may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the commissioner determines within such period, based on information available to him or her, that the addition of such new principal may have a result inimical to the purposes of this chapter, such wholesaler or market business may add such new principal pending the completion of review by the commissioner. Such wholesale business or market business shall be afforded an opportunity to demonstrate to the commissioner that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If the commissioner determines, following completion of such review, that such principal lacks good character, honesty and integrity, the registration shall cease to be valid if the commissioner determines that such principal has failed to divest his or her interest, or to discontinue his or her involvement in the business of such business or both, as the case may be, within the time period prescribed by the commissioner.

c. The department shall maintain and publish a list of all wholesalers and market businesses that are registered with the commissioner together with the registration numbers of such wholesalers and market businesses. The department shall make such list available to suppliers, shippers, truckers and any member of the public who requests it and shall, upon request, verify to suppliers, shippers and truckers whether a business is currently registered with the commissioner.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

Subd. a amended L.L. 15/2000 § 2, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-254

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-254 Conduct of wholesale businesses and market businesses.

The commissioner shall establish by rule measures governing the conduct of wholesale businesses and market businesses in the public wholesale markets, including but not limited to: (i) requirements that wholesale businesses maintain and supply their registration numbers to suppliers, and shippers and truckers; (ii) requirements for the disposal of waste and other sanitary measures; (iii) appropriate insurance and bonding requirements; (iv) provisions requiring the maintenance of financial statements, records, ledgers, receipts, bills and such other written records as the commissioner determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule by the commissioner, provided, however, that such rule may provide that the commissioner may, in specific instances at his or her discretion, require that records be maintained for a period of time exceeding such five years. Such records shall be made available for inspection and audit at the request of the commissioner at either the registrant's place of business or at the offices of the department; and (v) such other rules as he or she deems necessary or appropriate to effectuate the provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-255

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-255 Visitor pass.

The department or a designee of the department shall be authorized to issue a visitor pass as a requirement for any person to enter a public wholesale market including but not limited to: retailers who enter the market to purchase products and their employees and temporary employees; and, subject to the provisions of section 22-264 of this chapter, officers and business agents of labor unions or organizations covered by such section and officers and business agents of the affiliates thereof, including international unions, pension and welfare funds and others. Such pass shall be in a form prescribed by the commissioner, may contain a photograph of such person and shall indicate the reason the person is visiting the market, whether such person visits the market on a regular basis or, in the event that such person does not regularly visit the market, the date for which such pass shall be valid. The commissioner may provide for the issuance of permanent visitor passes to those persons who regularly visit a market, and shall provide for the expeditious issuance of passes at the market entrance to persons wishing to enter the market on a single or occasional basis. A pass shall be in the possession of such person at all times when such person is in the market and shall be worn and visible in compliance with rules promulgated by the commissioner pursuant to section 22-266 of this chapter. The department or, at the direction of the department, a designee of the department, shall be authorized to deny a visitor pass and entry into a market to any person whose presence may constitute a threat to the orderly operation of a market or who has failed to provide the identifying information required by the commissioner or the designee of the commissioner. The provisions of this section shall not apply to any public wholesale market to which access by the public has routinely been permitted without control, restriction or other regulation for no less than a year directly preceding the effective date of this provision; provided, however, that the commissioner may apply such provisions upon a determination that an emergency exists that necessitates the temporary restriction of access to such a market. For the purposes of this section, a "designee of the department" shall mean an agency of the city or, in the discretion of the commissioner, a wholesaler

cooperative or similar organization. Nothing in this section shall be construed to permit the denial of a visitor pass to a representative of a labor union or labor organization solely because such person seeks to engage in the lawful exercise within a public wholesale market of an activity protected under the provisions of the National Labor Relations Act, 29 U.S.C. §141 et seq., including, but not limited to, the lawful picketing of a place of business of a wholesale business or market business in connection with a legitimate labor dispute, except as may otherwise be prohibited by law. However, such person shall not impede any reasonable measure undertaken by a police officer or authorized employee of the department intended to control vehicle and pedestrian traffic within such public wholesale market or upon any street, avenue, parkway, plaza, square or other public place designated as a public market. The commissioner shall consult with the commissioner of labor relations prior to reaching any determination that an activity be a representative of a labor union or organization is not lawful under the National Labor Relations Act.

HISTORICAL NOTE

Section amended L.L. 15/2000 § 3, eff. Mar. 29, 2000.

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules

promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-256

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-256 Fees.

The commissioner shall by rule establish fees for photo identification cards, for registration and the renewal of registration, and for visitor passes issued pursuant to this chapter in amounts sufficient to compensate the city for the administrative expense of issuance of such photo identification cards, of registration and the inspections and other activities related thereto, and of issuance of visitor passes. Such rule may provide that a designee of the department perform administrative functions related to the issuance of photo identification cards or the issuance of visitor passes and that such designee may, with the approval of the commissioner, impose a fee for the performance of such functions. For the purposes of this section "designee of the department" shall mean an agency of the city or, in the discretion of the commissioner, a wholesaler cooperative or similar organization. Registration pursuant to this chapter shall be valid for three years. A wholesale business or a market business shall be responsible for the payment of any fee imposed by this section with respect to an employee of such business or any person seeking to become an employee of such business.

HISTORICAL NOTE

Section amended L.L. 15/2000 § 4, eff. Mar. 29, 2000.

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-257

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-257 Liability for violations.

a. A wholesale business or market business required by this chapter to be registered with the commissioner shall be liable for a violation committed by any of its officers, employees and/or agents acting within the scope of their employment of any of the provisions of this chapter or any rules promulgated pursuant thereto.

b. In any civil action or administrative proceeding against an employee of a wholesale business or market business for a violation of this chapter or any rules promulgated pursuant thereto, it shall be an affirmative defense that the employee was acting within the scope of his or her employment when the action or actions constituting the alleged violation were committed and that such action or actions were committed pursuant to an instruction given to such employee by such wholesale business or market business or by any principal, officer or agent of such business, provided, however, that this subdivision shall not be applicable to a violation of section 22-252 or section 22-262 of this chapter and any rules promulgated pursuant thereto.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

Subd. a so designated L.L. 15/2000 § 5, eff. Mar. 29, 2000.

Subd. b added L.L. 15/2000 § 5, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-258

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-258 Penalties.

a. Except as otherwise provided in subdivision b of this section, any person who violates any provision of this chapter or any of the rules promulgated hereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action or in a proceeding before the environmental control board or other administrative tribunal of competent jurisdiction.

b. (i) Any person who violates the requirement to obtain a photo identification card or to register a business contained in section 22-252 or section 22-253 of this chapter or who violates section 22-262 of this chapter shall, upon conviction thereof, be subject to a criminal fine for each violation of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action or proceeding before the environmental control board or other administrative tribunal of competent jurisdiction.

(ii) The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any violation of this chapter and for civil penalties.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-259

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-259 Issuance and refusal to issue registrations and photo identification cards.

a. Where the commissioner has reasonable cause to believe that an applicant for registration pursuant to section 22-253 of this chapter or an applicant for a photo identification card lacks good character, honesty and integrity, the commissioner may require that such applicant shall: (i) be fingerprinted by a person designated for such purpose by the commissioner or the department of investigation and a fee shall be paid which shall be submitted to the division of criminal justice services and/or the federal bureau of investigation for the purposes of obtaining criminal history records; (ii) provide to the commissioner, upon a form prescribed by the commissioner and subject to such minimum dollar thresholds and other reporting limitations as the commissioner may establish by rule therein any of the following items that the commissioner determines are necessary and appropriate to evaluate the application of such applicant for registration or the application of such person for a photo identification card, including but not limited to: (a) a listing of the names and addresses of any persons having a beneficial interest in the applicant for registration, the amount and nature of such interest and the acqusition cost; (b) a listing of the names and addresses of all officers, directors, partners and stockholders holding more than ten percent of the outstanding shares of the business, and of the names and addresses of any manager or other person who has policy or financial decision-making authority in the business of an applicant for registration; (c) a listing of the amounts in which such applicant is indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owed; (d) a listing of such applicant's real property holdings or mortgage or other interest in real property held by such applicant other than a primary residence and the names and addresses of all co-owners of such interest; (e) a listing of mortgages, loans, and instruments of indebtedness held by such applicant, the amount of such debt, and the names and addresses of all such debtors; (f) the name and address of any business in which such applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (g) the names and addresses of all persons or entities from whom such applicant has

received gifts valued at more than one thousand dollars in any of the past three years, and the names of all persons or entities excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code to whom such applicant has given such gifts in any of the past three years; (h) a listing of all criminal convictions, in any jurisdiction, of the applicant; (i) a listing of all pending civil or criminal actions to which such applicant is a party; (j) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business; (k) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency of which the applicant has or should have knowledge, in the five year period preceding the application, wherein such applicant has: (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such investigation; (l) where applicable, a certification that the applicant has paid all federal, state, and local income taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding; (m) a statement authorizing the department to verify with federal, state and local taxing authorities, to the maximum extent permitted by law, the facts contained in the certification submitted pursuant to subparagraph (l) of this paragraph; (n) where applicable, the names and addresses of the principals of any predecessor wholesale business or market business of the applicant; and (o) such additional information concerning good character, honesty and integrity that the commissioner may deem appropriate and reasonable; and (iii) appear to be interviewed by the department of investigation or the department. The commissioner may require that fees be paid by or on behalf of such applicants to cover the expenses of fingerprinting and background investigations provided for in this subdivision as are set forth in the rules promulgated pursuant to section 22-266 of this code. A wholesale business or a market business shall be responsible for the payment of any fee imposed by this section with respect to an employee of such business or any person seeking to become an employee of such business.

b. The commissioner may, after notice and the opportunity to be heard, refuse to register an applicant or issue a photo identification card to a person who lacks good character, honesty and integrity. Such notice shall specify the reasons for such refusal. In making such determination, the commissioner may consider, but not be limited to: (i) failure by such applicant or person to provide truthful information in connection with the application; (ii) a pending indictment or criminal action against such applicant or person for a crime which under this subdivision would provide a basis for the refusal of such registration, or a pending civil or administrative action to which such applicant or person is a party and which directly relates to the fitness to conduct the business or perform the work for which the registration or photo identification card is sought, in which cases the commissioner may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending; (iii) conviction of such applicant or person for a crime which, under article 23-A of the correction law, bears a relationship to the fitness of such applicant or person to conduct a business or work in a market; (iv) commission of a racketeering activity or association with a person who has been convicted for a racketeering activity when the applicant knew or should have known of such activity, including, but not limited to, an offense listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq) or for an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (v) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant for registration or photo identification card knew or should have known of the organized crime associations of such person; (vi) a principal of the applicant was a principal in a predecessor wholesale business or market business where the commissioner would be authorized to deny registration to such predecessor business pursuant to this subdivision; or (vii) in the case of an applicant business, failure to pay any tax, fine, penalty or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction and such judgment has not been stayed. An applicant may submit to the commissioner any material or explanation which such applicant believes demonstrates that information submitted pursuant to this subdivision does not re- flect adversely upon the applicant's good character, honesty and integrity.

c. The commissioner may require that an applicant business shall submit such information as the commissioner deems necessary to demonstrate the financial responsibility of such applicant to conduct the activity for which such registration is required, and may refuse to register any applicant who has not, in the commissioner's determination, demonstrated such financial responsibility.

d. The commissioner may refuse to register or to issue a photo identification card to a person when such applicant has knowingly failed to provide the information and/or documentation required by the commissioner pursuant to this chapter or any rules promulgated pursuant thereto or who has otherwise failed to demonstrate eligibility for such registration or photo identification card under this chapter or any rules promulgated pursuant thereto.

e. The commissioner may refuse to register or to issue a photo identification card to a person when such applicant: (i) was previously issued a registration or a photo identification card under this chapter and such registration or card was revoked or not renewed pursuant to the provisions of this chapter or any rules promulgated hereto; or (ii) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of registration or a photo identification card pursuant to this chapter or any rules promulgated hereto.

f. For the purposes of this section: "predecessor wholesale business or market business" shall mean a wholesale business or market business in which one or more principals of the applicant were principals in the five year period preceding the application; and, in relation to investigations of employees pursuant to section 22-252 of this chapter, the term "applicant" shall be deemed to apply to employees or agents of an applicant for registration.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and

(3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-260

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-260 Revocation or suspension of registration or photo identification card.

In addition to the penalties provided in section 22-258 of this code, the commissioner may revoke a temporary photo identification card, and after notice and hearing revoke or suspend a registration issued pursuant to section 22-253 of this chapter or a photo identification card when the registrant or its officers, employees or agents or a person to whom such photo identification card has been issued: (i) has been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) has repeatedly failed to obey lawful orders of representatives of the department; (iii) in the case of a person who works in the market and holds an office in a labor union or labor organization, or in a wholesale trade association, has failed to obey a commissioner's order of disqualification from holding such office pursuant to subdivision c of section 22-264 or subdivision c of section 22-265 of this chapter; (iv) has continued to employ a person who has failed to obey a commissioner's order of disqualification from holding office in a labor organization or labor union or a trade association; (v) has failed to pay any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant hereto; (vi) has been found in persistent or substantial violation of any city, state or federal laws, rules or regulations regardng the improper handling of food, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) has been found by the commissioner, after consideration of the factors set forth in subdivision b of section 22-259 of this chapter to lack good character, honesty and integrity; (viii) has been found to have made any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance or renewal of the registration or photo identification card was based; or (ix) has failed to notify the commissioner as required by subdivision b of section 22-252 or subdivision a of section 22-253 of this code of any change in the ownership interest of the business or other material change in the information required on the application for such registration or photo identification card, or of the arrest or criminal conviction of the registrant or any of his or her officers, employees or agents of which the registrant had knowledge or should have

known. Nothing in this section shall be construed to permit the revocation of a photo identification card of an employee who is a member of a labor union or labor organization solely for the reason that such person has sought to engage in the lawful exercise within a public wholesale market of an activity protected under the provisions of the National Labor Relations Act, 29 U.S.C. §141 et seq. The commissioner shall consult with the commissioner of labor relations prior to reaching any determination that an activity by a representative of a labor union or labor organization is not lawful under the National Labor Relations Act.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

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[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

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NYC Administrative Code 22-261

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-261 Emergency suspension of registration and photo identification card.

Notwithstanding any other provision of this chapter or rules promulgated thereto, the commissioner may, if he or she has reasonable cause to believe that the operation of any business or the presence of any person in a public wholesale market creates an imminent danger to life or property or to the orderly and lawful operation of the market, or that there has likely been false or fraudulent information submitted in an application made pursuant to this chapter, immediately suspend a registration or a permanent photo identification card without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to a deputy commissioner of the department who shall determine such appeal forthwith. In the event that the deputy commissioner upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commissioner shall issue a final determination no later than four business days following the conclusion of such hearing; and provided further that the commissioner may, upon application by a business whose registration has been suspended, permit such business to remain in the market for such time as is necessary to allow for the expeditious sale, consignment or removal of a perishable product if, in the commissioner's best judgment, such permission is consistent with the orderly operation and safety of the market. Nothing in this section shall be construed to permit the emergency suspension of a photo identification card of an employee who is a member of a labor union or labor organization solely for the reason that such person is seeking or has sought to engage in the lawful exercise within a public wholesale market of an activity protected by the provisions of the National Labor Relations Act, 29 U.S.C. §141 et seq. The commissioner shall consult with the commissioner of labor relations prior to reaching any determination that an activity by a representative of a labor union or labor organization is not lawful under the National Labor Relations Act.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

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NYC Administrative Code 22-262

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-262 Surrender of registration certificate and photo identification card and cessation of use of registration number.

Suspension or revocation of a registration shall require the immediate surrender to the commissioner of the registration certificate and all photo identification cards issued for employees of the registrant. Suspension or revocation of a registration shall also require the immediate cessation of use of a registration number. Suspension or revocation of a photo identification card or discontinuance of employment in the market shall require the immediate surrender of such identification card. Violation of the provisions of this section may result in revocation of the registration or photo identification card where such registration or identification card is under suspension or in criminal or civil penalties as provided in subdivision b of section 22-258 of this chapter.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-262.1

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-262.1 Seizure; forfeiture.

a. Any police officer or authorized officer or employee of the department may, upon service of a notice of violation or criminal summons upon the owner or operator of a vehicle or other property or equipment, seize such vehicle or such other property or equipment which such police officer or authorized officer or employee has reasonable cause to believe is being used in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter where such vehicle or other property or equipment is owned, leased or rented by a person subject to the provisions of such subdivision or such vehicle or other property or equipment is owned by a person other than an employee and is used directly by a person subject to the provisions of such subdivision. Any vehicle, property or equipment seized pursuant to this subdivision shall be delivered into the custody of the department or other appropriate agency. Where a notice of violation has been served, a hearing to adjudicate the violation underlying the seizure shall be held before the environmental control board within five business days after the seizure and such board shall render a decision within five businesss days after the conclusion of the hearing. Where a criminal summons has been served, a hearing to adjudicate the violation underlying the seizure shall be held before a court of competent jurisdiction. In the event that such court or the environmental control board determines that there has been no violation, the vehicle, property or equipment that was seized shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

b. Except as otherwise provided in subdivision a of this section or where notice has been given that forfeiture will be sought pursuant to paragraph (ii) of subdivision e of this section, a vehicle or other property or equipment seized pursuant to subdivision a of this section shall be released upon payment of a fine or civil penalty imposed for the violation underlying the seizure and the costs of removal and storage as set forth in the rules of the department. Where

an action or a proceeding relating to the violation underlying the seizure is pending in a court of competent jurisdiction or an administrative proceeding before the environmental control board, the vehicle or other property or equipment shall be released upon posting of a bond or other form of security sufficient to cover the maximum fine or civil penalty which may be imposed for such violation and the costs of removal and storage.

c. Where a court of competent jurisdiction or the environmental control board makes a finding that the vehicle or other property or equipment has not been used in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter, the vehicle or other property or equipment shall be released forthwith to the owner or any person authorized by the owner to take possession of such vehicle, property or equipment.

d. Any vehicle or other property or equipment that has not been claimed by the owner within ten business days after mailing by first class mail to such owner of notice of a determination by a court of competent jurisdiction or by the environmental control board that there has been no violation or that the vehicle or other property or equipment was not used in connection with a violation of subdivision a of section 22-253 of this chapter shall be deemed by the department to be abandoned. Any vehicle unclaimed under the provisions of this subdivision shall be disposed of by the department pursuant to section twelve hundred twenty-four of the vehicle and traffic law. Property or equipment other than a vehicle shall be disposed of by sale at public auction following notice by publication in the city record describing such property or equipment not less than ten business days prior to such sale. Such notice shall provide that the owner may reclaim such property or equipment until a date that shall be not sooner than ten business days from the date the notice is published.

e. (i) in addition to any other fines, penalties, sanctions or remedies provided for in this chapter, a vehicle or other property or equipment which has been seized pursuant to subdivision a of this section and all rights, title and interest therein shall be subject to forfeiture upon notice and judicial determination thereof if the owner of such vehicle or other property or equipment has been found liable by a court of competent jurisdiction or the environmental control board on one or more prior occasions for using such vehicle or such other property or equipment in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter.

(ii) A forfeiture proceeding may not be commenced more than ten business days after the receipt of a request by the owner for return of the vehicle, other property or equipment. If a forfeiture proceeding is not commenced within such ten day period, the property shall be returned to the owner upon payment of the fine or civil penalty imposed and the costs of removal and storage. A vehicle or other property or equipment which is the subject of such action shall remain in the custody of the department or other appropriate agency pending the final determination of the forfeiture action.

(iii) Notice of the institution of the forfeiture action shall be served by first class mail on: (a) an owner of a vehicle at the address set forth in the records maintained by the department of motor vehicles, or for vehicles not registered in New York state, in the records maintained by the state of registration; (b) all persons holding a security interest in such vehicle which security interest has been filed with the department of motor vehicles pursuant to the provisions of title ten of the vehicle and traffic law, at the address set forth in the records of such department, or for vehicles not registered in New York state, all persons who hold a security interest in such vehicle which security interest has been filed with such state of registration and which persons are made known by such state to the department at the address provided by such state of registration; and (c) for property and equipment other than a vehicle, by publication in the city record describing such property or equipment and by notice served by first class mail to the address of the person from whom such property or equipment was seized. Where such person is other than the owner of such property or equipment, notice shall be served by first class mail both to such person and to the owner of such property or equipment where such owner is known, or can by reasonable effort, be ascertained or, where such owner is not known or cannot by reasonable effort be ascertained, to the employer of the person from whom the property or other equipment was seized. Notice shall also be served by first class mail to any person who holds a security interest in such property or equipment when the name and address of such person has been provided by the owner of the property or equipment or other person from whom the property or equipment was seized, or is otherwise known or can, by reasonable effort, be

ascertained.

(iv) Any owner who receives notice of the institution of a forfeiture action who wishes to claim an interest in the vehicle or other property or equipment subject to forfeiture may assert a claim in such action for the recovery of the vehicle or other property or equipment or satisfaction of the owner's interest in such vehicle or other property or equipment. Any person with a security interest in such vehicle or property or equipment who receives notice of the institution of the forfeiture action who claims an interest in such vehicle or other property or equipment may assert a claim in such action for satisfaction of such person's security interest.

(v) Forfeiture pursuant to this subdivision shall be made subject to the interest of a person who claims an interest in the vehicle or other property or equipment pursuant to paragraph (iv) of this subdivision, where such person establishes that: (a) the use of such vehicle, property or equipment in connection with an act constituting a violation of subdivision a of section 22-253 of this chapter that was the basis for seizure occurred without the knowledge of such person, or if such person had knowledge of such use, that such person did not consent to such use by failing to do all that could reasonably have been done to prevent such use, and that such person did not knowingly obtain such interest in the vehicle, property or equipment in order to avoid the forfeiture; or (b) that the conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the vehicle, property or equipment while such vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state.

(vi) The department, after judicial determination of forfeiture, shall, at its discretion, either: (a) retain such vehicle, property or equipment for the official use of the city; or (b) by public notice of at least five days, sell such forfeited vehicle, property or equipment at public sale. The net proceeds of any such sale shall be paid into the general fund of the city.

(vii) In any forfeiture action commenced pursuant to this subdivision, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest in the forfeited vehicle, property or equipment, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited vehicle, property or equipment after deduction of the lawful expenses incurred by the city, including the reasonable costs of removal and storage between the time of seizure and the date of sale.

(viii) For purposes of this section, the term "owner" of a vehicle shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eight of the vehicle and traffic law. The term "owner" of other property or equipment subject to seizure or forfeiture pursuant to this section shall mean a person who demonstrates ownership of such property or equipment to the satisfaction of the commissioner.

(ix) For purposes of this section, the term "security interest" in a vehicle shall mean a security interest as defined in subdivision k of section two thousand one hundred one of the vehicle and traffic law. "Security interest" in other property or equipment shall mean an interest reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security.

HISTORICAL NOTE

Section added L.L. 15/2000 § 8, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of

such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-263

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-263 Business address.

Each applicant for registration pursuant to this chapter shall provide the commissioner with a business address in New York city where notices may be delivered and legal process served.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist

of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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***** Current through December 2009 ****

NYC Administrative Code 22-264

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-264 Registration of labor union and labor organization; disqualification from office-holding.

a. A labor union or labor organization representing or seeking to represent employees directly involved in the movement, handling or sale of goods sold in any public wholesale market in the city of New York shall, within the time period prescribed by the commissioner, register with the commissioner and shall disclose such information to the commissioner as the commissioner may by rule require, including but not limited to the names of all officers and agents of such union or organization; provided, however, that this section shall not apply: (i) to a labor union that represents or seeks to represent fewer than two hundred employees in any public wholesale market or combination of public wholesale markets in the city of New York; (ii) to a labor union representing or seeking to represent clerical or other office workers, construction or electrical workers or any other workers temporarily or permanently employed in a public wholesale market for a purpose not directly related to the movement, handling or sale of goods in such market; (iii) to affiliated national or international labor unions of local labor unions required to register pursuant to this provision; and provided, further, that no labor union or labor organization shall be required to furnish information pursuant to this section which is already included in a report filed by such labor union or labor organization with the Secretary of Labor pursuant to 29 U.S.C. §431 et seq. or §1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commissioner.

b. An officer of a labor union or labor organization required to be registered with the commissioner pursuant to subdivision a of this section shall inform the commissioner, on a form prescribed by the commissioner, of: (i) all criminal convictions, in any jurisdiction, of such officer; (ii) any pending civil or criminal actions to which such officer is a party; and (iii) any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five year period preceding the date of registration pursuant to subdivision a of this

section and at any time subsequent to such registration, wherein such officer has (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such an investigation. Any material change in the information reported pursuant to this subdivision shall be reported to the commissioner within thirty calendar days thereof. The commissioner may, if he or she has reasonable cause to believe that such an officer lacks good character, honesty and integrity, require that such officer be fingerprinted by a person designated by the commissioner for such purpose or by the department of investigation and pay a fee to be submitted to the division of criminal justice services and/or the federal bureau of investigation for the purpose of obtaining criminal history records.

c. The commissioner may, after notice and opportunity to be heard, disqualify an officer of a labor union or labor organization from holding office when such person: (i) has failed, by the date prescribed by the commissioner, to be fingerprinted or to provide truthful information in connection with the reporting requirements of subdivision b of this section; (ii) is the subject of a pending indictment or criminal action against such officer for a crime which bears a direct relationship to the lawful and orderly operation of the market, in which case the commissioner may defer a determination until a decision has been reached by the court before which such action is pending; (iii) has been convicted of a crime which, under the standards set forth in article 23-A of the correction law, bears a direct relationship to the lawful and orderly operation of the market, including the specific duties and responsibilities necessarily related to the union office; the bearing, if any the criminal offense or offenses will have on the fitness of the officer to perform such responsibilities; the time which has elapsed since the occurrence of the criminal offense or offenses; the seriousness of the offense or offenses; and any information produced by the person, or produced on his or her behalf, in regard to his or her rehabilitation or good conduct; (iv) has committed a racketeering activity or associated with a person who has been convicted of a racketeering activity, including but not limitied to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organization statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, when the officer knew or should have known of such conviction; or (v) has associated with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the officer knew or should have known of the organized crime associations of such person. An officer required to disclose information pursuant to subdivision a of this section may submit to the commissioner any material or explanation which such officer believes demonstrates that such information does not reflect adversely upon the officer's good character, honesty and integrity. If the commissioner determines pursuant to this subdivision that there are sufficient grounds to disqualify a person from holding office in a labor union or labor organization, the commissioner shall suspend such person from holding office pending final determination and, in the event such person is disqualified, such suspension shall continue pending resignation or vacatur of or removal from office. Upon written request of the suspended person within ten days of the commissioner's determination, the director of the office of collective bargaining shall prepare a list of the names of the first fifteen arbitrators selected at random from the roster of arbitrators approved by the office of collective bargaining and present the first five names on such list to the suspended person and the commissioner. Within alternating periods of five business days the suspended person and then the commissioner shall each strike a name from the list of selected arbitrators. If the parties cannot within two additional business days jointly appoint an arbitrator from those remaining on the list, the suspended person and then the commissioner shall within alternating periods of two business days each strike an additional name from the list. The remaining arbitrator shall thereupon be appointed as the arbitrator for that proceeding and shall establish a schedule for such proceeding. In the event that such arbitrator declines the appointment or for any reason is unable to accept the appointment, then the director of the office of collective bargaining shall within five business days present to the suspended person and the commissioner the next five names on the list of arbitrators previously selected at random and the procedures set forth in this subdivision for appointing an arbitrator shall be applied to this second group. In the event that the arbitrator appointed from this second group declines the appointment or for any reason is unable to accept the appointment then the director of the office of collective bargaining shall present the remaining five names from the list arbitrators selected at random and the suspended person shall select an arbitrator from such group. Such arbitrator shall make a final report and recommendations in writing concerning the disqualification. The commissioner shall accept such report and recommendations and issue his or her final determination consistent with such report and

recommendations. In the event that the suspended person does not make a request for arbitration within the ten-day period he or she shall be disqualified from holding office. Upon receiving an order of the commissioner pursuant to this subdivision disqualifying a person from holding office in a labor union or labor organization, such person shall resign or vacate such office within fourteen days or, if such person fails to resign or vacate such office within such time period, such union or organization shall remove such person forthwith from such office. Failure of such a person to resign or vacate office within such time period shall subject such person to the penalties set forth in subdivision a of section 22-258 of this chapter. An officer who has been disqualified or suspended by the commissioner pursuant to the provisions of this subdivision may be excluded by the commissioner from the market. Nothing in this section shall be construed to authorize the commissioner to disqualify a labor union or labor organization from representing or seeking to represent employees of a business required to be registered pursuant to section 22-253 of this code.

d. In reaching a determination to fingerprint or disqualify an officer of a labor union or labor organization pursuant to subdivisions b or c of this section, the commissioner shall give substantial weight to the results of any investigation conducted by an independent investigator, monitor, trustee or other person or body charged with the investigation or oversight of such labor union or labor organization, including whether such investigation has failed to return charges against such officer.

e. Notwithstanding any other provision of this chapter to the contrary, the provisions of this section shall apply to any labor union or labor organization representing or seeking to represent employees of business required to be licensed or registered pursuant to chapter 1-A of this title in the fulton fish market distribution area or other seafood distribution area. The term "market" shall, for purposes of application of the provisions of this section to the fulton fish market distribution or other seafood distribution area, mean such areas.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

Subd. b amended L.L. 15/2000 § 6, eff. Mar. 29, 2000.

Subd. c amended L.L. 15/2000 § 6, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-265

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-265 Registration of wholesale trade association; disqualification from office-holding.

a. A wholesaler trade association shall, within the time period prescribed by the commissioner, register with the commissioner and shall disclose such information to the commissioner as the commissioner may by rule require, including but not limited to the names of all members of such association and of all persons holding office in such association. The commissioner may promulgate rules requiring that an association required to register pursuant to this section maintain financial statements, records, ledgers, receipts, bills and such other written records as the commissioner determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule by the commissioner; provided, however, that such rule may provide that the commissioner may, in specific instances at his or her discretion, require that records be maintained for a period of time exceeding five years. Such records shall be made available for inspection and audit at the request of the commissioner at either the offices of the association or the offices of the department.

b. An officer of a wholesale trade association required to register pursuant to this section shall inform the commissioner, on a form prescribed by the commissioner, of: (i) all criminal convictions, in any jurisdiction, of such officer; (ii) any pending civil or criminal actions to which such officer is a party; and (iii) any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five year period preceding the date of registration pursuant to subdivision a of this section and at any time subsequent to such registration, wherein such officer has (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such an investigation. Any material change in information reported pursuant to this subdivision shall be reported to the commissioner within thirty calendar days thereof. The commissioner may, if he or she has reasonable cause to believe that such an officer of a trade association

lacks good character, honesty and integrity, require that such officer be fingerprinted by a person designated by the commissioner for such and pay a fee to be submitted to the division of criminal justice for the purpose of obtaining criminal history records.

c. The commissioner may, after notice and opportunity to be heard, disqualify a person from holding office in a wholesale trade association when such person: (i) has failed, by the date prescribed by the commissioner, to be fingerprinted or to provide truthful information in connection with the reporting requirements of subdivision b of this section; (ii) is the subject of a pending indictment or criminal action against such officer for a crime which bears a relationship to the lawful and orderly operation of the market, in which case the commissioner may defer a determination pending a determination by the court before which such action is pending; (iii) has been convicted of a crime which, under the standards of article 23-A of the correction law, bears a relationship to the lawful and orderly operation of the market; (iv) has committed a racketeering activity or associated with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organization statute (18 U.S.C. §1961 et seq) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, when the officer knew or should have known of such conviction; or (v) has associated with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the officer knew or should have known of the organized crime associations of such person. An officer required to disclose information pursuant to subdivision a of this section may submit to the commissioner any material or explanation which such officer believes demonstrates that the officer does not lack good character, honesty and integrity. Upon receiving an order of the commissioner pursuant to this subdivision disqualifying a person from holding office in a wholesale trade association, such person shall vacate such office or, if such person fails to vacate such office within the time period specified by the commissioner, such association shall remove such person forthwith from such office. Failure of such person to vacate such office within the time specified by the commissioner shall subject such person to the penalties set forth in subdivision a of section 22-258 of this chapter or to injunctive action by the city pursuant to subdivision c of such section. An office-holder who has been disqualified pursuant to the provisions of this subdivision may be excluded by the commissioner from the market. Nothing in this section shall be construed to authorize the commissioner to disqualify a wholesale trade association from representing or seeking to represent a business required to be registered pursuant to section 22-253 of this chapter.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

Subd. b amended L.L. 15/2000 § 7, eff. Mar. 29, 2000.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue

intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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***** Current through December 2009 ****

NYC Administrative Code 22-266

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-266 Rules.

The commissioner may promulgate such rules as he or she may deem necessary to effectuate the provisions of this chapter.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist

of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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***** Current through December 2009 ****

NYC Administrative Code 22-267

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-267 Investigations by the department of investigation.

The commissioner of the department of investigation may conduct a study or investigation of any matter arising under the provisions of this chapter, including, but not limited to, investigation of the information required to be submitted by applicants for registration or photo identification cards.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the

commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-268

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-268 Timetable for implementation.

a. The commissioner shall be authorized to develop by rule a timetable for the sequenced implementation of provisions of this chapter and any rules promulgated thereunder to public wholesale markets.

b. Enforcement of the registration requirements or the requirements for photo identification cards and, where applicable, visitor passes in a public wholesale market shall commence upon the implementation date for such market set forth in the rules promulgated pursuant to subdivision a of this section, except that, with respect to any wholesaler or market business or any person working in a market as of such date who seeks to register or to obtain a photo identification card and whom the commissioner has required to submit to fingerprinting and disclosure requirements pursuant to section 22-259 of this chapter, no enforcement of such requirements shall take place unless and until such wholesaler or entity or person working in the market has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration or photo identification card has been denied.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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***** Current through December 2009 ****

NYC Administrative Code 22-269

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 1-B OTHER PUBLIC MARKETS*2

§ 22-269 Reporting Requirements.

a. No later than one week following the submission of the mayor's management report, the commissioner shall submit to the council a report detailing the department's activities pursuant to this chapter. Such report shall be submitted within one week after issuance by the mayor of the management report for the city. Except as provided in any provision of this section, this report shall provide information for the period covered by the mayor's management report. The report required by this section shall at a minimum include:

i. the number of criminal acts and violations of this chapter reported to have occurred within each public wholesale market. Such acts and violations shall include, without limitation (aa) acts of physical violence and threats of such violence, (bb) acts of damage to property and threats of such acts and (cc) thefts or threats of such thefts;

ii. the number of referrals to a state or federal prosecutor made by the commissioner with respect to the items contained in paragraph one of this section, the number of such referrals for which a prosecution was brought and the results of any such prosecutions;

iii. the number of applicants for registration that were denied, with a statement of the reasons for denials and the number of pending applications;

iv. the number of photo identification cards that have been issued, the number of applications for such card that have been denied, with a statement of the reasons for denial and the number of pending applications for such card;

v. the number of registrations and photo identification cards that have been suspended or revoked under sections

22-260 or 22-261 of this chapter, respectively, a statement of the reasons for such actions and the average duration of such suspensions;

vi. the number of principals of wholesalers, officers of labor unions or labor organizations, officers of wholesale trade associations and holders of photo identification cards to whom the provisions of section 22-259 of this chapter have been applied and the result under section 22-260 of this chapter;

vii. the amounts, by category, of all fees relating to implementation of this chapter to which the city is entitled, the amounts actually collected and the reasons for the difference; and

viii. the amounts, by category, of all expenditures relating to enforcement of the provisions of this chapter.

b. Unless otherwise provided, all items required to be reported pursuant to paragraphs i through viii of subdivision a of this section shall be reported separately for each public wholesale market.

HISTORICAL NOTE

Section added L.L. 28/1997 § 1, eff. May 16, 1997.

FOOTNOTES

2

[Footnote 2]: * Chapter 1-B added by L.L. 28/1997 § 1, eff. May 16, 1997. Note further provisions of such local law:

§2. The Brooklyn wholesale meat market, as described herein, shall be a public wholesale market for the purposes of section 1301 of the New York City charter and section 72-p of the general municipal law, as enacted by chapter five hundred six of the laws of nineteen hundred eighty-nine, and the commissioner of business services shall be authorized to exercise within the Brooklyn wholesale meat market all powers vested in the commissioner under the provisions thereof and this local law. The Brooklyn wholesale meat market shall consist of that area within the borough of Brooklyn beginning at the point where the westerly street line of first avenue intersects the center line of fifty-fourth street; thence southerly approximately eight hundred and eighty-six and four-tenths feet along the westerly street line of first avenue; thence westerly along a line perpendicular to first avenue to the United States pierhead line; thence northerly along the United States pierhead line to a point where the center line of fifty-fourth street as extended intersects the United States pierhead line; thence easterly along the center line of fifty-fourth street as extended to the point of beginning.

§3. Nothwithstanding any other provision of this local law to the contrary, the provisions of Chapter 1-B of Title 22 of the Administrative Code of the City of New York as added by section 1 of this local law regarding: (1) the authorization of the commissioner of business services to require a wholesaler or market business to contract with an independent auditor contained in section 22-253 of such code; (2) requirements for the registration of a labor organization or labor union and the disqualification from office-holding in such organizations contained in sections 22-264 and 22-260 of such code as added by section 1 of this local law; and (3) requirements for the registration of a market business contained in section 22-253 of such code of the city as added by section 1 of this local law shall apply as of the effective date of this local law within the fulton fish market distribution area or other seafood distribution area as defined in section 22-202 of the administrative code; provided, however, that no enforcement of the provisions of such section 22-253 with respect to the registration of such market business, the registration of labor organizations or labor unions or the disqualification of officers of such organizations or unions, or the registration of wholesaler trade associations or

the disqualification of officers of such associations shall take place until following the effective date of rules promulgated pursuant to this local law, except that, with respect to a market business doing business in the fulton fish market distribution area or other seafood distribution area as of the effective date of this local law the principals of which the commissioner has required to submit to fingerprinting and disclosure pursuant to section 22-258 of the administrative code as added by section 1 of this local law, no enforcement of such requirements shall take place unless and until such entity has failed to submit such fingerprints or disclosure within the time period specified by the commissioner or such registration has been denied.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-205

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 2 BUSINESS ACTIVITIES IN PUBLIC PLACES

§ 22-205 Permits for movie-making, telecasting and photography in public places; violations; penalties.

a. The executive director of the office for economic development*23 shall not issue to any applicant any permit for any activity subject to the provisions of subdivision thirteen of section thirteen hundred**24 of the charter, unless and until (1) all other permits, approvals and sanctions required by any other provision of law for the conduct of such activities by the applicant have been obtained by the executive director, in the name and in behalf of the applicant, from the agency or agencies having jurisdiction and (2) all fees required to be paid by, or imposed pursuant to, any provision of law for the issuance of such other permits, approvals and sanctions have been paid by the applicant.

b. It shall be unlawful for any person to conduct, without a permit from such executive director, any activity with respect to which such executive director is authorized to issue a permit under the provisions of the charter referred to in subdivision a of this section. Any violation of the provisions of this subdivision b shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1072a13-1.0 added LL 44/1962 § 4

Renumbered chap 100/1963 § 1547

(formerly § 241-1.0)

FOOTNOTES

23

[Footnote 23]: * Should be "commissioner of small business services".

24

[Footnote 24]: ** Should be "paragraph (r) of subdivision one of section thirteen hundred one".

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-301

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 3 PUBLIC UTILITY SERVICE

§ 22-301 Authorization for public utility service.

Pursuant to article fourteen-A of the general municipal law, the city hereby establishes a public utility service, as such term is defined in section three hundred sixty of such article, which is authorized to establish, construct, lease, purchase, own, acquire, use and/or operate facilities within or without the territorial limits of the city, for the purpose of furnishing to itself or for compensation to its inhabitants any service similar to that furnished by any public utility company specified in article four of the public service law. For such purpose the city may purchase electrical and other forms of energy from the state, or from any state agency, or other municipal corporation, or from any private or public corporation, and may sell or distribute such power to itself and to residential, commercial, industrial and other customers. The city shall possess any and all powers granted to a public utility service pursuant to article fourteen-A of the general municipal law and any other applicable provision of law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § A73-1.0 added LL 78/1982 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-302

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 3 PUBLIC UTILITY SERVICE

§ 22-302 Acquisition of energy and facilities.

The city shall contract for or otherwise purchase or acquire hydroelectric or other forms of energy as shall be available from the power authority of the state of New York, the state, any state agency, any other municipal corporation, or any private or public corporation, and shall arrange to use, lease or acquire the transmission, substation and distribution facilities necessary to furnish such power to the city and, for compensation, to residential, commercial, industrial and other customers; provided, however, that the city will not acquire or build any electric or gas transmission or distribution facilities which are parallel to, or duplicative of electric or gas transmission or distribution facilities of any utility companies within the city, nor take any action to impair any agreements, franchises, rights or obligations of any utility company within the city including, to provide safe, adequate and efficient service to conduct its business in the city and to protect its assets unless so authorized by further local law and public referendum.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § A73-2.0 added LL 78/1982 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-303

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 3 PUBLIC UTILITY SERVICE

§ 22-303 Distribution and sale of energy.

The city shall arrange with any utility companies for the distribution of energy through the use, lease, or acquisition of transmission, substation and distribution facilities within the service areas of such companies and for such companies to act on behalf of the city for collection of charges for such energy within such service areas, or for the sale of energy to such companies for resale to customers within the service areas of such companies.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § A73-3.0 added LL 78/1982 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-304

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 3 PUBLIC UTILITY SERVICE

§ 22-304 Rates.

The fixing of rates for furnishing hydroelectric and other forms of energy to residential, commercial, industrial and other customers shall include consideration of (1) the actual cost to the city for the purchase, distribution and delivery of such energy to such customers, (2) the actual expenses necessary for administration of the public utility service, including expenses for research and development, and (3) any other costs or charges allowed under law, including but not limited to, losses of tax revenues resulting from the operation of the public utility service. Such rates shall be computed to provide revenue in an amount not less than that necessary to recover fully such costs and expenses. Such rates shall be subject to approval of the city council.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § A73-4.0 added LL 78/1982 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-305

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 3 PUBLIC UTILITY SERVICE

§ 22-305 Municipal energy fund.

Revenues received from the operation of the public utility service shall be paid into a fund to be known as the municipal energy fund. The revenues paid into such fund shall not be revenues of the city, and payments from such fund shall be made without appropriation and shall not be included in the expense budget of the city. Nothing herein shall prohibit the city from appropriating expense or capital funds in connection with the public utility service, nor shall payments from the municipal energy fund to the general fund be prohibited.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § A73-5.0 added LL 78/1982 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-401

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 4 FOREIGN TRADE ZONES

§ 22-401 Foreign-trade zones.

The city is hereby authorized from time to time to make application to the board established by the act of congress, approved June eighteenth, nineteen hundred thirty-four, entitled "An act to provide for the establishment, operation and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," for a grant or grants or any extensions thereof to such city of the privilege of establishing, operating and maintaining a foreign-trade zone or zones or any extensions thereof in such city, pursuant to the provisions of such act, and if any such application be granted, to accept such grant or grants or any extensions thereof and to establish, operate and maintain any such zone or extension thereof in accordance with law. The authorization hereby granted shall extend to and cover any application heretofore made for any such purpose by the city pursuant to the act of congress hereinbefore described, and to any amendment of such an application.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 8a-3.0 added chap 396/1942 § 1

Renumbered chap 100/1963 § 30

(formerly § 70-9.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-501

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-501 Definitions.

a. As used in section 22-502, the following words and phrases shall mean and include:

1. "Strike". Any concerted act of the employees in a lawful refusal of the employees to perform work or services for the employer, provided such acts are not recognized as unlawful under New York state and federal law, and if the employees are represented by a labor organization, that the said labor organization shall have approved or sanctioned the act.

2. "Lockout". A refusal by an employer to permit his employees to work as a result of a dispute with such employees that affects wages, hours and other terms and conditions of employment of said employees, provided, however, that a lockout shall not include a termination of employment for reasons deemed proper under New York state and federal law.

3. "Employer". A person, firm or corporation who employs any employee to perform services for a wage or salary and includes any person, firm or corporation acting as an agent of any employer, directly or indirectly.

4. "Employee". Any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.

5. "Labor organization". Any organization of any kind or any agency or employee representation committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

6. "Strikebreaker". Any person who customarily and repeatedly offers himself or herself for employment for the duration of a strike or lockout in the place of employees involved in a strike or lockout.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 900-1.0 added LL 38/1962 § 1

Renumbered chap 100/1963 § 1699

(formerly § 1110-1.0)

CASE NOTES FROM FORMER SECTION

¶ 1. Telephone company which caused certain supervisors and craftsmen employed by various entities of the Bell System prior to a strike by workers of a labor union who were engaged in the installation, repair and maintenance of the equipment and facilities of the telephone company to perform the duties of the striking employees did not transport "strikebreakers".-Matter of Bahr (N.Y. Tel. Co.), 69 Misc. 2d 138 (1972).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-502

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-502 Unlawful conduct.

a. It shall be unlawful in the city of New York for any employer wilfully and knowingly to employ any strikebreaker to replace employees who are either on strike against or locked out by such employer.

b. It shall be unlawful within the city of New York for any person, firm or corporation not directly involved in a strike or lockout to recruit any person or persons for employment or to secure or offer to secure for a person or persons any employment when the purpose of such recruiting, securing or offering to secure employment is to have such person take the place in employment of employees in an industry or establishment where a strike or lockout exists, provided that this section shall not apply to any employment agency duly licensed in the city of New York or any nurses registry and provided that such employment is in the regular course of business of such employment agency or nurses registry.

c. It shall be unlawful for any person, firm or corporation including such duly licensed employment agency to transport or arrange to transport to the city of New York any person or persons for employment for the purpose of having such person take the place in employment of employees in an industry or establishment where a strike or lockout exists.

d. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine or not more than one thousand dollars or to suffer imprisonment for a term not exceeding one year, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 900-2.0 added LL 38/1962 § 1

Renumbered chap 100/1963 § 1699

(formerly § 1110-2.0)

CASE NOTES FROM FORMER SECTION

¶ 1. An airline did not violate this section when it transported certain supervisory employees to New York City to temporarily replace flight engineers who were on strike.-People v. Eastern Airlines, Inc., 38 Misc. 2d 1042, 237 N.Y.S. 2d 235 [1963].

CASE NOTES

¶ 1. A temporary restraining order enjoining Greyhound Lines from employing persons in NYC to replace striking employees and transporting such persons to NYC to replace the strikers lacks jurisdiction is stayed and suspended. An injunction resting on § 22-502, a limited territorial application, does not create a private right of action pervasive throughout the state. Amalgam Transit, Local 1202 v. Greyhound Lines, 157 AD2d 167 [1990].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-503

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-503 Extension or renewal of licenses and permits issued to persons performing active duty in the army, navy or marine corps.

a. Notwithstanding the provisions of any law, rule or regulation or the terms or conditions of any license relating to the examination of applicants for such licenses or the payment of fees therefor, the head of each agency of the city authorized to issue licenses or permits shall extend or renew any license issued by such agency to any person who shall:

1. Engage in the performance of active duty in the army, navy or marine corps of the United States,

2. Be honorably discharged therefrom or be relieved from active duty therein without fault or delinquency, and

3. Hold such license at the time of entrance upon such performance of active duty.

b. Upon application of any such person to the appropriate agency, within one year from his or her discharge from active duty, and without further examination as to the qualification of the applicant, the head of such agency shall renew such license.

c. Where the license is one for which there is an annual fee and where the business or occupation has been discontinued while the licensee was in active service, the head of such agency shall credit against the fee for the renewed license a sum equal to one-twelfth of the annual fee paid by the applicant for the license held by him or her for each month of such active duty until the expiration of such license. Application for such renewal of license shall be made within sixty days after the applicant's discharge from active duty. If at the time of renewal the credit, computed as above provided, is greater than the fee charged for the renewed license, the remainder of such credit shall be applied to

the fee charged for the next subsequent renewal of such license.

d. Nothing in this section shall affect any law, rule or regulation of any agency relating to the premises where the business or occupation is to be conducted or to the location or sanitary condition thereof.

e. The term "license" as used in this section shall include permits.

f. Notwithstanding the provisions of this section and section 19-505 of the code, the following persons shall be entitled to receive taxicab licenses upon the following terms and conditions:

1. Any person who held a taxicab license and transferred same immediately preceding entry into the performance of active duty in the army, navy or marine corps of the United States, in anticipation of engaging in the performance of such active duty, and was subsequently honorably discharged therefrom.

2. Any person who held a taxicab license at the time of entry into the performance of active duty in the army, navy or marine corps of the United States and transferred such taxicab license while engaged in such duty and was or is subsequently honorably dis- charged.

3. Applications for taxicab licenses under this subdivision must be made to the taxicab and limosine commission within one hundred and twenty days after his or her discharge from military service.

4. Taxicab licenses issued pursuant to the provisions of this subdivision shall not be transferable except that licenses issued to World War II veterans (if current and operative April fifteenth, nineteen hundred sixty-three), shall be transferable provided said licenses have not been previously revoked for cause or surrendered voluntarily.

In the event that the holder of such a license has died prior to March twenty-seventh, nineteen hundred sixty-seven, a transferable license shall be issued to the legal representative of the deceased licensee, provided said representative files a suitable application therefor and is qualified to hold such license.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C49-2.0 added LL 112/1941 § 1

Sub f added LL 40/1945 § 1

Sub f par 4 amended LL 28/1962 § 1

Renumbered chap 100/1963 § 643

(formerly § C40-2.0)

Sub f par 4 amended LL 71/1963 § 1

Sub f par 4 amended LL 19/1967 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-504

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-504 Experience; honorably discharged members of the armed forces of the United States.

Whenever, by the provisions of the code experience in a particular trade is a prerequisite for obtaining any license, certificate or permit issued thereunder the period of service in the armed forces of the United States in time of war, including the period of service with said armed forces in the Korean conflict, or in the Vietnam conflict, by an honorably discharged member thereof who shall apply for such license, certificate or permit, shall be deemed the equivalent of such experience on a year for year basis and shall be accepted accordingly, provided, however, that such applicant prior to his or her entry into the said armed forces possessed not less than one year of the experience required under the code, and further provided that such experience was interrupted by such entry into the said armed forces.

The provisions of this section shall not apply to license of master rigger, master plumber and license of high-pressure boiler operating engineer, except that of an applicant for a license of high-pressure boiler operating engineer, who has had, during the ten years immediately preceding the filing of this application, at least five years' experience required under the code, or at least one year's experience prior to his or her entry into the said armed forces, and while in the said armed forces served as a firefighter, oiler, boilermaker, machinist, water tender or engineer, or while in the said armed forces performed duties equivalent to the duties performed by firefighter, oiler, boilermaker, machinist, water tender or engineer for an additional period of time, to make a total of five years' experience shall be deemed to possess the required experience as applicant for a license of high-pressure boiler operating engineer. The provision of this section shall apply only to applicants who are at least eighteen years of age; and are able to read and write the English language.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § U51-6.0 added LL 34/1946 § 1

(expired 7/1/1951 per LL 34/1946 § 2)

Amended LL 27/1947 § 1

(expired 7/1/1951 per LL 27/1947 § 2)

Amended LL 20/1954 § 1

Renumbered chap 100/1963 § 1494

(formerly § U41-6.0)

Amended LL 12/1970 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-505

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-505 Displaced Building Service Workers.

a. For purposes of this section only, the following terms shall have the following meaning:

(1) "Building service" means work performed in connection with the care or maintenance of an existing building and includes, but is not limited to, work performed by a watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, window cleaner, and superintendents.

(2) "Building service contract" means a contract let to any covered employer for the furnishing of building services, and includes any subcontracts for such services.

(3) "Building service contractor" means any person who enters into a building service contract.

(4) "Building service employee" means any person employed as a building service employee by a covered employer who has been regularly assigned to a building on a full or part-time basis for at least ninety days immediately preceding any transition in employment subject to this section except for (i) persons who are managerial, supervisory, or confidential employees, provided that this exemption shall not apply to building superintendents or resident managers, (ii) persons earning in excess of twenty-five dollars per hour from a covered employer, and (iii) persons regularly scheduled to work fewer than eight hours per week at a building.

(5) "City of New York" means any city, county or borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government the expenses of which are paid in whole or in part

from the city treasury.

(6) "Covered employer" mens any person who owns or manages real property, either on its own behalf or for another person, within the City of New York, including, but not limited to, housing cooperatives, condominium associations, building managing agents, and any building service contractor, provided, however, that the requirements of this subchapter shall not apply to (i) residential buildings of less than 50 units, (ii) commercial office, institutional or retail buildings of less than 100,000 square feet, (iii) any building in which the city of New York and/or any governmental entity, the head or majority of members of which are appointed by one or more officers of the city of New York, occupies fifty percent or more of the rentable square footage, or (iv) to the extent that such requirements conflict with title 11, section 162 of the state finance law.

(7) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ persons or enter into service contracts, but shall not inclue the city of New York, the state of New York, and the federal government or any other governmental entity, or any individual or entity managing real property for a governmental entity.

(8) "Successor employer" means a covered employer that (i) has been awarded a building service contract to provide, in whole or in part, building services that are substantially similar to those provided under a service contract that has recently been terminated, or (ii) has purchased or acquired control of a property in which building service employees were employed.

b. (1) No less than fifteen calendar days before terminating any building service contract, any covered employer shall request the terminated contractor to provide to the successor employer a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the terminated contract.

(2) No less than fifteen calendar days before transferring a controlling interest in any covered building in which building services employees are employed, any covered employer shall provide to the successor employer a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the transfer of controlling interest.

(3) No more than seven calendar days after notice that its building service contract has been terminated, any covered employer shall provide to the successor employer a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee employed on the notice date at the site or sites covered by the terminated building service contract.

(4) When providing the notice required under this subsection, each covered employer shall ensure that a notice to building service employees is posted setting forth the rights provided under this section and which includes a copy of the list provided under the preceding sections, and that such notice is also provided to the employees' collective bargaining representative, if any. The notice and list shall be posted in the same location and manner that other statutorily required notices to employees are posted at the affected building(s).

(5) A successor employer shall retain for a ninety (90) day transition employment period at the affected building(s) those building service employee(s) of the terminated building service contractor (and its subcontractors), or other covered employer, employed at the building(s) covered by the terminated building service contract or owned or operated by the former covered employer.

(6) If at any time the successor employer determines that fewer building service employees are required to perform building services at the affected building(s) than had been performing such services under the former employer, the successor employer shall retain the predecessor building service employees by seniority within job classification; provided, that during such 90-day transition period, the successor employer shall maintain a preferential hiring list of those building service employees not retained at the building(s) who shall be given a right of first refusal to any jobs

within their classifications that become available during that period.

(7) Except as provided in part (6) of this subsection, during such 90-day period, the successor contractor shall not discharge without cause an employee retained pursuant to this section.

(8) At the end of the 90-day transition period, the successor employer shall perform a written performance evaluation for each employee retained pursuant to this section. If the employee's performance during such 90-day period is satisfactory, the successor contractor shall offer the employee continued employment under the terms and conditions established by the successor employer or as required by law.

c. (1) A building service employee who has been discharged or not retained in violation of this section may bring an action in Supreme Court against a successor contractor and/or covered employer for violation of any obligation imposed pursuant to this section.

(2) The court shall have authority to order injunctive relief to prevent or remedy a violation of any obligation imposed pursuant to this section.

(3) If the court finds that by reason of a violation of any obligation imposed pursuant to subsection b, a building service employee has been discharged or not retained in violation of this section, it shall award:

(i) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of (a) the average regular rate of pay received by the employee during the last three years of the employee's employment in the same occupation classification; or (b) the final regular rate received by the employee.

(ii) Costs of benefits the successor employer would have incurred for the employee under the successor contractor's or employer's benefit plan(s).

(iii) The building service employee's reasonable attorneys fees and costs.

(4) In any such action, the court shall have authority to order the terminated contractor or former employer to provide the successor employer with the information required pursuant to subsection b of this section.

d. The provisions of this section shall not apply (i) to any successor employer that, on or before the effective date of the transfer of control from a predecessor covered employer to the successor employer or the commencement of services by a successor building service contractor, agrees to assume, or to be bound by, the collective bargaining agreement of the predecessor covered employer covering building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees; or (ii) where there is no existing collective bargaining agreement as described in subsection (i) above, to any successor employer that agrees, on or before the effective date of the transfer of control from a predecessor covered employer to the successor employer or the commencement of services by a successor building service contractor, to enter into a new collective bargaining agreement covering its building service employees, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees; or (iii) to any successor employer whose building service employees will be accreted to a bargaining unit with a pre-existing collective bargaining agreement, provided that the collective bargaining agreement provides terms and conditions for the discharge or laying off of employees; or (iv) any covered employer that obtains a written commitment from a successor employer that the successor employer's building service employees will be covered by a collective bargaining agreement falling within subparts (i), (ii), or (iii) above.

HISTORICAL NOTE

Section added L.L. 39/2002 § 2, eff. Nov. 27, 2002. [See Note]

NOTE

Provisions of L.L. 39/2002:

Section 1. Declaration of Legislative Findings and Intent. The effects of September 11 and the deepening recession have been devastating for low income New Yorkers. The volatility of the real estate industry coupled with new trends in the service economy are undermining stable employment relationships and creating a drain on an already overburdened social service system. At a time of great uncertainty, it is the policy of the City to promote stability in employment for building service workers, which will reduce the need for social services resulting from unemployment, and promote stability in the service industry.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-506

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 5 PRIVATE EMPLOYMENT

§ 22-506 [Grocery industry, employer-paid healthcare.]*

a. Short title. This section28 shall be known and may be cited as the "Health Care Security Act."

b. Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) "Active retail floor space" means the floor space in any store operated by a grocery employer that is utilized for the display and sale of food; provided that such term shall not include any storage space, loading dock, food preparation space or eating area designated for the consumption of prepared food.

(2) "Administering agency" means any city agency, office, department, division, bureau or institution of government, the expenses of which are paid in whole or in part from the city treasury, as the mayor shall designate.

(3) "City" means the city of New York.

(4) "Covered employer" means any grocery employer operating in the city.

(5) "Covered industry" means the grocery industry operating in the city.

(6) "Employee" means any person who is not a family member of a covered employer and who works at any location in the city on a full-time, part-time or seasonal basis for any grocery employer; provided that such term shall not include persons who are managerial, supervisory or confidential employees; and provided further that such term shall not include persons who are hired to work exclusively for the holiday period from November 1 through December 31.

(7) "Entity" or "Person" means any natural person, corporation, sole proprietorship, partnership, association, joint venture, limited liability company or other legal entity.

(8) "Family of employee" means the spouse or domestic partner as defined in section 3-240 of the administrative code of an employee and each dependent child of such employee.

(9) "Family member of a covered employer" means the spouse or domestic partner as defined in section 3-240 of the administrative code of a covered employer and each child, parent, sister or brother of such employer.

(10) "Fiscal year" means the period from July 1 of each year through June 30 of the following year.

(11) "Food" means nourishment for human consumption.

(12) "Grocery employer" means any entity operating one or more retail stores in the city that (i) primarily sell food for off-site consumption, where such entity employs fifty or more employees at any one such store, provided that such entity shall be deemed to employ the highest number of employees that such entity employed at any time during the preceding fiscal year or (ii) contain 12,500 square feet or more of active retail floor space for the sale of food for off-site consumption, such as a "big box" retail store or warehouse club; provided that such term shall not include any retail store for which pharmacy sales comprise fifty percent or more of store sales.

(13) "Health care expenditure" means any amount paid by a covered employer to its employees or to another party on behalf of its employees and/or the families of its employees for the purpose of providing health care services or reimbursing the cost of such services for its employees and/or the families of its employees, including, but not limited to, (i) contributions by such employer to a health savings account as defined under section 223 of the United States internal revenue code or to any other account having substantially the same purpose or effect without regard to whether such contributions qualify for a tax deduction or are excludable from employee income; (ii) reimbursement by such employer to its employees and/or the families of its employees for incurred health care expenses where such recipients had no entitlement to have expenses reimbursed under any plan, fund or program maintained by such employer; or (iii) contributions by such employer to any New York city health and hospitals corporation facility or federally qualified health center that is located in a borough where such employer operates a store or where the majority of such employer's employees reside, provided that such contributions shall not be designated for a particular individual or group of individuals, notwithstanding anything herein to the contrary; provided, however, that such term shall not include any payment made directly or indirectly for workers'compensation, Medicare benefits or any other health care costs, taxes or assessments that such employer is required to pay pursuant to any federal, state or local law other than this section, or any amount deducted from an employee's wages and not reimbursed by such employer.

(14) "Health care services" means primary or secondary medical care or services, including, but not limited to, (i) inpatient and outpatient hospital services, (ii) physicians' ,surgical and medical services, (iii) laboratory, diagnostic and x-ray services, (iv) prescription drug coverage, (v) annual physical examinations, (vi) preventative services, (vii) mental health services or (viii) substance abuse treatment services; provided, however, that such term shall not include any medical procedure or treatment which is solely cosmetic.

(15) "Prevailing health care expenditure rate" means the amount of health care expenditure customarily made on behalf of a full-time employee and/or the family of such employee in the same trade or occupation in the covered industry, prorated on an hourly basis and calculated pursuant to paragraph 2 of subdivision c of this section.

(16) "Required health care expenditure" means the total health care expenditure that a covered employer is required to make each year for its employees and/or the families of its employees pursuant to subdivision c of this section.

(17) "Retaliatory action" means the discharge, suspension, demotion or penalization of, or discrimination or taking other adverse action against, an employee with respect to the terms and conditions of such employee's

employment.

c. Required health care expenditures. (1) Covered employers shall make required health care expenditures on behalf of their employees and/or the families of their employees each fiscal year, beginning on July 1, 2006. Such expenditures may be made within thirty days after the close of the fiscal year for which such expenditures are required to be made; provided that no health care expenditures may be credited toward more than one fiscal year.

(2) The administering agency shall annually determine the prevailing health care expenditure rate for employees in the covered industry using procedures and standards similar to those used to calculate prevailing wages and fringe benefits pursuant to sections 230 and 220 of the New York state labor law; provided that where thirty percent or more of such employees are covered by a valid collective bargaining agreement, the prevailing health care expenditure rate for such employees shall be equal to the health care expenditure rate for full-time employees as provided under such collective bargaining agreement; provided further that where there are more than one such collective bargaining agreements with differing health care expenditure rates for full-time employees which together cover thirty percent or more of the employees in the covered industry, the prevailing health care expenditure rate for such employees shall be the average such rate of all such agreements; and provided further that all employees employed in the covered industry shall be deemed to be in the same trade or occupation for purposes of determining the prevailing health care expenditure rate. Each prevailing health care expenditure rate determined pursuant to this subdivision shall be published by the administering agency by March 1 of each year and shall take effect on July 1 of the fiscal year.

(3) Each covered employer shall annually determine its required health care expenditure by multiplying the prevailing health care expenditure rate as determined by the administering agency pursuant to this subdivision for such employer's covered industry by the total number of hours worked during the fiscal year by all the employees of such employer. A covered employer may use any reasonable methodology to determine (i) the number of hours worked during the fiscal year by its employees; (ii) such employer's required health care expenditure for the fiscal year; and (iii) whether the health care expenditure made by such employer during the fiscal year is at least equal to such employer's required health care expenditure for such year. Each covered employer shall file a concise statement describing such methodology with the administering agency, or if no such agency has been designated, with the city clerk, by April 1 of each year for the following fiscal year.

(4) A covered employer shall (i) maintain an accurate work log that includes, for each employee, such employee's name, trade or occupation, and the dates and hours or time periods worked by such employee, provided, however, that covered employers shall not be required to maintain such records in any particular form; (ii) provide an employee or such employee's designated representative(s) with access to such employee's work log and payroll records for inspection and copying; (iii) maintain accurate records of health care expenditures and required health care expenditures, and proof of such expenditures each year, provided, however, that covered employers shall not be required to maintain such records in any particular form; and (iv) provide a report to the administering agency on an annual basis containing the information required to be maintained pursuant to subparagraphs (i) and (iii) of this paragraph, and such other information as the administering agency shall require. Such report shall be made available to the public upon request without employee names or other personally identifying information. A covered employer that is a signatory to one or more collective bargaining agreements that cover at least seventy-five percent of its employees may comply with this section as provided in subdivision g.

d. Unlawful retaliation. It shall be unlawful for any covered employer to deprive or threaten to deprive any person of employment, take or threaten to take any retaliatory action against any person, or directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence any person because such person has taken an action to enforce, inquire about or inform others about the requirements of this section. Taking any such adverse action against any person within ninety days of such person's exercise of rights pursuant to this section shall raise a rebuttable presumption that such action was in retaliation for the exercise of such rights.

e. Violations and penalties. (1) Any covered employer found to be in violation of this section by failing to make health care expenditures during the fiscal year at least equal to the required health care expenditure for such employer shall be liable for a civil penalty equal to the amount of the shortfall.

(2) Any covered employer found to be in violation of this section by failing to make health care expenditures during the fiscal year at least equal to the required health care expenditure for such employer shall correct such violation within ninety days of such determination. The administering agency shall serve a notice to correct such violation which shall specify the date which is ninety days from such determination by which the violation shall be corrected. Failure to correct such violation pursuant to this paragraph shall subject a covered employer to a civil penalty of not less than five hundred dollars for each day such violation continues.

(3) Any covered employer found to have violated any of the requirements of paragraph (4) of subdivision c of this section shall be liable for a civil penalty of not less than five hundred dollars for each such violation.

(4) In addition to being liable for civil penalties pursuant to this subdivision, any covered employer found to have violated this section may be subject to other action taken by the administering agency, including, but not limited to, requesting that city agencies or departments revoke or suspend any city-issued registration certificates, permits or licenses held by such covered employer until such time as the violation is remedied.

(5) Penalties imposed pursuant to this section shall not affect any right or remedy available or civil or criminal penalty applicable under law to any individual or entity, or in any way diminish or reduce the remedy or damages recoverable in any action in equity or law before a court of law with competent jurisdiction.

f. Enforcement. (1) The administering agency shall take appropriate action to enforce this section, including, but not limited to, periodically auditing covered employers to monitor compliance with this section; establishing a system to receive complaints from any person charging that a violation has occurred pursuant to this section; investigating complaints received; and making findings of violations and civil penalties in accordance with the provisions of this section.

(2) Any proceeding to recover any civil penalty authorized pursuant to this section shall be commenced by the service of a notice of violation which shall be returnable to the administering agency. The commissioner or other designated person of such administering agency shall, after due notice and an opportunity for a hearing, be authorized to impose the civil penalties prescribed by this section.

(3) Any action or proceeding that may be appropriate or necessary for the correction of any violation issued pursuant to this section, including, but not limited to, actions to secure permanent injunctions, enjoining any acts or practices which constitute such violation, mandating compliance with the provisions of this section or such other relief as may be appropriate, may be initiated in any court of competent jurisdiction by the corporation counsel or such other persons designated by the corporation counsel on behalf of the administering agency.

(4) Any joint-labor management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (section 175a of title 29 of the United States code) operating in the covered industry or any employee of a covered employer may bring an action in any court of competent jurisdiction against a covered employer that fails to make health care expenditures during the fiscal year at least equal to the required health care expenditure for such employer in violation of this section. Upon a determination of any such violation, the court may award any appropriate equitable relief to secure compliance with this section and shall award reasonable attorney's fees and costs incurred in maintaining the action to any complaining party who prevails in any such enforcement action.

(5) Any aggrieved person may bring an action in any court of competent jurisdiction against a covered employer for violation of subdivision d of this section. Upon a determination of any such violation, the court may award any appropriate remedy at law or equity and shall award reasonable attorney's fees and costs incurred in maintaining the action to any complaining party who prevails in any such enforcement action.

(6) Any enforcement proceedings commenced under this section must be commenced within three years after the date of the occurrence or termination of the alleged violation, whichever occurs later.

g. Exemption. A covered employer that is a signatory to one or more collective bargaining agreements that cover at least seventy-five percent of its employees may fully comply with the requirements of this section by filing annually with the administering agency proof of such collective bargaining agreements and their terms, in such form and manner as specified by the administering agency, and shall otherwise be exempt from all other provisions of this section.

h. Rules. The administering agency shall promulgate rules in accordance with this section and such other rules as may be necessary for the purpose of implementing, construing and carrying out the provisions of this section.

HISTORICAL NOTE

Section added L.L. 89/2005 § 2, eff. Jan. 9, 2006. [See Note 1]

Subd. b amended L.L. 1/2006 § 1, eff. Mar. 1, 2006. [See Note 2]

Subd. c par (1) amended L.L. 1/2006 § 2, eff. Mar. 1, 2006. [See Note 2]

Subd. c par (3) amended L.L. 1/2006 § 2, eff. Mar. 1, 2006. [See Note 2]

Subd. c par (4) amended L.L. 1/2006 § 2, eff. Mar. 1, 2006. [See Note 2]

Subd. f par (2) amended L.L. 1/2006 § 3, eff. Mar. 1, 2006. [See Note 2]

Subd. f par (4) amended L.L. 1/2006 § 3, eff. Mar. 1, 2006. [See Note 2]

NOTE

1. Provisions of L.L. 89/2005:

Section 1. Declaration of legislative findings and intent. In major industries in New York City, such as the grocery industry, responsible employers have long provided employer-paid health care for their employees and the families of their employees. Ensuring that employers do not eliminate employer-paid health care is important for minimizing the burden on taxpayers and the public health care system, protecting the health, safety and well-being of hardworking New Yorkers and promoting safe conditions and stable growth. Furthermore, research shows that ensuring access to employer-paid health care can strengthen industries by reducing employee turnover and improving employers' ability to recruit new employees.

The City Council finds that in order to achieve these goals, employers should make prevailing health care expenditures on behalf of their employees. This local law initially establishes such a program in the grocery industry, where responsible employers have demonstrated that it is economically feasible to pay for their employees' health care, but a growing number of employers in this industry are not doing so.

. . . . . .

§ 3. If any section, subsection, sentence, clause, phrase, or other portion of this local law, including any requirement imposed pursuant to it, is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect. § 4. This local law shall take effect ninety days after its enactment into law.

2. Provisions of L.L. 1/2006:

§ 4. If any section, subsection, sentence, clause, phrase, or other portion of this local law, including any requirement imposed pursuant to it, is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 5. This local law shall take effect immediately or on the date that local law 89 of 2005 takes effect [L.L. 89/2005 effective Jan. 9, 2006], whichever is later.

FOOTNOTES

28

[Footnote 28]: * Section heading provided by editor.

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6 REBATES OF CHARGES FOR ENERGY

§ 22-601 Definitions.

When used in this chapter the following terms shall have the following meanings:

(a) "Commercial development pressure areas."

(1) The area delineated by a line beginning at the point of intersection of the Manhattan, Queens and Brooklyn borough lines and running easterly along the Queens borough line to the center line of Greenpoint Avenue; thence easterly along the center line of Greenpoint Avenue to the center line of Review Avenue; thence northerly along the center line of Review Avenue to the center line of Borden Avenue; thence easterly along the center line of Borden Avenue to the center line of Van Dam Street; thence northerly along the center line of Van Dam Street to the center line of Skillman Avenue; thence easterly along the center line of Skillman Avenue to the center line of Honeywell Street; thence northerly along the center line of Honeywell Street to the center line of Northern Boulevard; thence southwesterly along the center line of Northern Boulevard to the center line of Fortieth Road; thence westerly along the center line of Fortieth Road to the center line of Twenty-ninth Street; thence southerly along the center line of Twenty-ninth Street to the center line of Forty-first Avenue; thence westerly along the center line of Forty-first Avenue to the Queens borough line; thence southerly along the Queens borough line to the point of beginning; and

(2) The area delineated by a line beginning at the point of intersection of the Brooklyn borough line and the center line of Fulton Street and running southerly along the center line of Fulton Street to the center line of Prospect Street; thence easterly along the center line of Prospect Street to the center line of Adams Street; thence southerly along the center line of Adams Street to the center line of Tillary Street; thence easterly along the center line of Tillary Street to the center line of Duffield Street; thence northerly along the center line of Duffield Street to the Brooklyn borough

line; thence westerly along the Brooklyn borough line to the point of beginning.

(b) "Eligible areas." All areas of the city except (i) with respect to a person relocating therefrom, those designated as commercial development pressure areas in subdivision (a) of this section, and (ii) the area lying south of the center line of 96th Street, in the borough of Manhattan.

(c) "Eligible charges", "eligible public utility service charges" and "eligible on-site cogenerator charges". (1)(i) Eligible charges are charges for energy services purchased from a utility or from a vendor of energy services at a rate or rates established pursuant to an order or rule of the New York state public service commission or the federal energy regulatory commission, other than charges for the purchase of the commodity of natural gas or electricity, and shall include applicable rate reductions for economic development or similar purposes, and all taxes payable thereon and shall exclude charges in accordance with paragraph two of this subdivision.

(ii) Eligible public utility service charges are actual charges for energy services made by a public utility service, and shall include all taxes payable thereon, and shall exclude charges in accordance with paragraph two of this subdivision, provided, however, that the commissioner of small business services may by rule adjust eligible public utility charges for purposes of adjusting the special rebate based thereon to an amount that would be comparable to the special rebate available to a comparable customer of a utility as determined by such commissioner.

(iii) Except as otherwise provided in paragraph five of subdivision (a) of section 22-602 of this chapter with respect to eligible on-site cogenerators certified before July first, two thousand three, and clean on-site cogenerators certified after June thirtieth, two thousand three, eligible on-site cogenerator charges are charges for energy services purchased from a utility related to the delivery of natural gas to an on-site cogenerator at rates established pursuant to an order or rule of the New York state public service commission or the federal energy regulatory commission, and shall include applicable rate reductions for economic development or similar purposes, and all taxes payable thereon and shall exclude charges in accordance with paragraph two of this subdivision.

(2) (i) Eligible charges, eligible public utility service charges, and, except as otherwise provided in paragraph five of subdivision (a) of section 22-602 of this chapter with respect to eligible on-site cogenerators certified before July first, two thousand three and clean on-site cogenerators certified after June thirtieth, two thousand three, eligible on-site cogenerator charges shall not include the following charges: (A) any special charges on bills relating to energy services, including, but not limited to, collection charges, late payment charges or excess distribution charges, or any additional fee charged by a vendor of energy services to an eligible energy user, qualified eligible energy user or on-site cogenerator for energy services, as authorized by subdivision (d) of this section; (B) charges for such energy services that are resold; and (C) charges for energy services used for heating the premises.

(ii) Eligible charges and eligible public utility service charges shall not include charges for energy services used in the production of electricity.

(iii) Eligible on-site cogenerator charges shall not include charges made by a utility for energy services relating to the sale or delivery of natural gas used by an on-site cogenerator to generate electricity used by any user not located on the same site as the on-site cogenerator or by any user for purposes of heating any premises.

(d) "Eligible energy user." Any non-residential user of energy services, except a government agency, public benefit corporation, or instrumentality thereof, hotel, retail vendor or energy intensive facility, as defined in this section, that:

(1) takes occupancy of non-residential premises after May third, nineteen hundred eighty-five, for which it has, after such date, entered into a written agreement to buy or lease, provided that such premises are located in an eligible area and that such premises are a replacement for premises previously occupied by such energy user for a continuous period of twenty-four months during the thirty-month period immediately preceding such user's taking occupancy, which previously occupied premises were: (i) outside an eligible area, or (ii) within a commercial development pressure

area, provided that such replacement premises are not located in a commercial development pressure area; or

(2) occupies, operates or manages specially eligible premises as defined in this section.

Eligible energy users shall not include an occupant of premises contained within a commercial development pressure area that have been used principally for manufacturing activities at any time during the twelve-month period prior to such occupant's taking occupancy unless such occupant uses such premises principally for manufacturing activities or such user takes occupancy of such premises after June thirtieth, two thousand. In addition, an occupant of premises described in paragraph one or two of this subdivision shall not be an eligible energy user unless: (i) the energy services used and electricity or natural gas consumed by such occupant at such premises are individually and accurately metered and billed so as to enable a determination of the occupant's usage of energy services, natural gas or electricity; and (ii) for any occupant purchasing energy services, natural gas or electricity from a vendor of energy services, (A) the price charged by such vendor for such energy services, electricity and natural gas shall be no higher than the price that would have been charged such occupant directly by a utility pursuant to the applicable tariffs of the New York state public service commission or the federal energy regulatory commission, provided that an additional fee, not exceeding twelve percent of such price, may be charged by such vendor, and (B) the price, charges, fees (if any) and other terms and conditions for the sale of such energy services, electricity or natural gas to such occupant are clearly and separately set forth in a written contract or lease agreement between such occupant and such vendor, and such vendor shall separately state in each bill for such services, electricity and natural gas the price, charges and fees (if any) that are included in such bill and the amount of the special rebate made to such occupant or that no special rebate has been made.

(e) "Hotel." A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(f) "Manufacturing activity." An activity involving the assembly of goods to create a different article, the processing or fabrication or packaging of goods.

(g) "Discount." The amount of a reduction in a bill for energy services rendered to a vendor of energy services or a public utility service by a utility in accordance with the requirements of section 22-602 of this chapter equal to the special rebates made by such vendor or public utility service to eligible energy users.

(h) "Retail Vendor." Any person, including any corporation or other business entity which is predominantly engaged in the sale, other than through the mail, of tangible personal property to any person, for any purpose unrelated to the trade or business of such person, or which is predominantly engaged in selling services to individuals which services generally involve the physical, mental and/or spiritual care of such individuals, or the physical care of the personal property of such person unrelated to the trade or business of such person, provided however, where such sale of tangible personal property or services is performed only by one or more operating units, divisions or subdivisions of any person, only such operating units, divisions or subdivisions shall come within the definition contained herein.

(i) "Specially eligible premises."

(1) Non-residential premises that are wholly contained in property that is eligible to obtain benefits under part four of subchapter two of chapter two of title eleven of this code, or would be eligible to receive benefits under such chapter except that such property is exempt from real property taxation and the requirements of paragraph two of subdivision g of section 11-259 of this code have not been satisfied, provided that application for such benefits was made after May third, nineteen hundred eighty-five and prior to July first, two thousand ten, that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that the minimum required expenditure as defined in such chapter has been made, and that such real property is located in an eligible area; or

(2) non-residential premises that are wholly contained in real property that has obtained approval after May

third, nineteen hundred eighty-five and prior to November first, two thousand for financing by the city industrial development agency established pursuant to section nine hundred seventeen of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of twenty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such real property is located in an eligible area; or

(3) non-residential premises that are wholly contained in real property that has obtained approval after October thirty-first, two thousand and prior to July first, two thousand ten for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such property to such agency, and that such real property is located in an eligible area; or

(4) non-residential premises that are wholly contained in real property owned by the city of New York or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter and such approval was obtained after May third, nineteen hundred eighty-five and prior to November first, two thousand, provided, however that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property (by construction or renovation) in excess of twenty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such real property is located in an eligible area; or

(5) non-residential premises that are wholly contained in real property owned by such city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter of such city or by the board of directors of such corporation, and such approval was obtained after October thirty-first, two thousand and prior to July first, two thousand ten, provided, however, that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property (by construction or renovation) in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the effective date of such lease, and that such real property is located in an eligible area; or

(6) non-residential premises contained in real property not located in an eligible area that otherwise meet the criteria of paragraph one, two, three, four or five of this subdivision, where such premises shall be used primarily for manufacturing activities and provided that such premises shall be improved as a result of expenditures in an amount in excess of ten per centum of the assessed value of such real property attributable to such premises at which such real property was assessed for tax purposes for the tax year in which such improvements commenced. Attribution of value shall be made in accordance with the rules and regulations of the mayor. Only expenditures for improvements that have been identified as part of the construction or reconstruction project meeting the requirements of paragraph one, two, three, four or five of this subdivision, whichever is applicable, shall qualify for purposes of satisfying the minimum expenditure requirements of this subdivision. Notwithstanding the foregoing, for purposes of applying the criteria of this subdivision, the reference to May third, nineteen hundred eighty-five contained in paragraphs one, two and four of this subdivision shall be deemed a reference to May first, nineteen hundred eighty-six.

(7) provided, however, that no such premises described in paragraph one, two, three, four, five or six of this subdivision, contained in a newly constructed structure or building, shall come within this definition unless such premises meet the requirements of the New York state energy conservation construction code promulgated pursuant to article eleven of the energy law.

(j) "Special rebate." The amount of a reduction in a bill rendered by a utility, a public utility service or a vendor of energy services for energy services to an eligible energy user or a qualified eligible energy user, or an agent of either, or an on-site cogenerator or a clean on-site cogenerator; and calculated in accordance with the applicable provisions of section 22-602 of this chapter and the rules of the department of small business services.

(k) "Vendor of energy services." Any person, corporation or other entity not subject to the jurisdiction and general supervision of the New York state public service commission that furnishes or sells energy services to an eligible energy user, a qualified eligible energy user or an on-site cogenerator as an incident to leasing, subleasing, licensing or otherwise permitting such user to rent or occupy premises of such vendor.

(l) "Empowerment zone". Empowerment zone shall mean an area within the city of New York that has been designated as an empowerment zone pursuant to the Omnibus Budget Reconciliation Act of 1993.

(m) "Public utility service". A service established by the city of New York pursuant to article fourteen-A of the general municipal law, including the New York city public utility service.

(n) "Empire zone." An area within the city that has been designated as an empire zone pursuant to article eighteen-B of the general municipal law.

(o) "Utility". A person that provides energy services within the city of New York and is subject to the jurisdiction and general supervision of the New York state public service commission and to a tax imposed by such city under chapter eleven of title eleven of the code, except that the Long Island Power Authority, or its subsidiary, is a utility under this subdivision to the extent that it provides energy services within the city of New York and makes a payment to such city that is equivalent to the tax imposed on utilities pursuant to chapter eleven of title eleven of the code.

(p) "Energy conservation measures". The construction, alteration, repair or improvement to a building or separate leased space within a building or to equipment affixed to, contained in, or on the grounds of a building, which reduces energy consumption.

(q) "Simple payback period". The number of years necessary to recoup the cost of an energy conservation measure through annual energy cost savings.

(r) "Qualified eligible energy user". (1) A user of energy services that would have qualified as an eligible energy user under paragraph one of subdivision (d) of this section if the reference to May third, nineteen hundred eighty-five were deemed a reference to December thirty-first, nineteen hundred ninety, and that (i) agrees to expand the number of its full-time employees, within two years from the date of certification, by fifty employees or ten percent of the number of its full-time employees as of January first, nineteen hundred ninety-one, whichever is greater; provided, however, that one economically disadvantaged or unemployed person hired as a full-time employee after the date of certification shall be counted as two full-time employees and two part-time employees shall be counted as one full-time employee; and provided, further, that the mayor may define by rule full-time employees, part-time employees, unemployed persons, economically disadvantaged persons, and criteria for continued eligibility in relation to fluctuations in employment levels; or (ii) develops, implements, and maintains, in consultation with the New York city department of social services, the department of small business services or the New York city department of youth and community development, job training program which shall be certified and monitored by such department and which shall meet the standards for such programs as are established by the rules of the mayor; or

(2) Any non-residential user of energy services, except a government agency, public benefit corporation, or instrumentality thereof, hotel or retail vendor as defined in this section, that occupies, operates or manages targeted eligible premises.

An occupant of targeted eligible premises described in paragraph one or two of this subdivision shall not be a

qualified eligible energy user unless the energy services used by such occupant at such premises are individually and accurately metered and billed so as to enable a determination of the occupant's usage of such energy services to be made.

(s) "Targeted eligible premises". (1) non-residential premises that are wholly contained in property that is eligible to obtain benefits under part four of subchapter two of chapter two of title eleven, or would be eligible to receive benefits under such chapter except that such property is exempt from real property taxation and the requirements of paragraph two of subdivision g of section 11-259 of the code have not been satisfied, provided that application for such benefits was made after December thirty-first, nineteen hundred ninety and prior to November first, two thousand, that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that twice the minimum required expenditure as defined in such chapter has been made, and that such real property is located in an eligible area; or

(2) non-residential premises that are wholly contained in real property which has obtained approval after December thirty-first, nineteen hundred ninety and prior to November first, two thousand for financing by an industrial development agency established pursuant to section nine hundred seventeen of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises by construction or renovation, and that expenditures have been made for improvements to such real property in excess of forty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such real property is located in an eligible area; or

(3) non-residential premises that are wholly contained in real property owned by the city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter, and such approval was obtained after December thirty-first, nineteen hundred ninety and prior to November first, two thousand, provided that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property by construction or renovation in excess of forty per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, and that such real property is located in an eligible area; or

(4) non-residential premises contained in real property not located in an eligible area that otherwise meet the criteria of paragraph one, two or three of this subdivision, where such premises shall be used primarily for manufacturing activities and provided that such premises shall be improved as a result of expenditures in an amount in excess of twenty per centum of the assessed value of such real property attributable to such premises at which such real property was assessed for tax purposes for the tax year in which such improvements commenced. Attribution of value shall be made in accordance with the rules of the mayor. Only expenditures for improvements that have been identified as part of the construction or renovation project meeting the requirements of paragraph one, two or three of this subdivision, whichever is applicable, shall qualify for purposes of satisfying the minimum expenditure requirements of this subdivision.

Provided, however, that no such premises described in paragraph one, two, three or four of this subdivision, contained in a newly constructed structure or building, shall come within this definition unless such premises meet the requirements of the New York state energy conservation construction code promulgated pursuant to article eleven of the energy law. And provided, further, that (i) the qualified eligible energy user shall submit on an annual basis proof that the heating and cooling systems within the premises continue to meet the performance standards specified in section 7813.21 of the energy conservation construction code, or such predecessor section to which the premises, when constructed or substantially renovated, were subject and (ii) to the extent that the cost of motors or lighting equipment described in sections 7813.52 and 7813.53 of the energy conservation construction code is included as part of the minimum expenditures required in paragraph one, two, three or four of this subdivision, the qualified eligible energy user shall certify that all such compatible equipment with a simple payback period of five years or less has been installed.

(t) "Energy services". The transmission and distribution of electricity or gas, and such other services that are associated with such transmission and distribution as shall be designated as energy services by rule of the commissioner of small business services as such commissioner deems necessary to promote economic development, provided that energy services shall not include the commodity of gas or electricity.

(u) "On-site cogenerator". A person, other than a utility, that owns an electric generating facility that simultaneously or sequentially produces electricity and useful thermal energy, provided that substantially all of such electricity shall be used by an eligible energy user that occupies the same site as such generating facility. An on-site cogenerator may be the same or a separate person as such eligible energy user.

(v) "Clean on-site cogenerator". An on-site cogenerator, the electricity generating facility of which has an emission rate for nitrous oxides of no more than three tenths of one pound per megawatt hour. The commissioner of the department of small business services shall establish by rule a megawatt hour equivalent for any useful thermal energy produced by the cogenerator for purposes of determining benefits under this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (c) amended chap 107/2003 § 21, eff. July 1, 2003.

Subd. (c) amended chap 472/2000 § 48, eff. Nov. 1, 2000, with special

provisions. [See Note to § 11-503]

Subd. (c) amended chap 256/1991 § 8, eff. July 1, 1991.

Subd. (c) amended L.L. 56/1989 § 1.

Subd. (c) amended chap 825/1986 § 5.

Subd. (c) amended L.L. 20/1986 § 28.

Subd. (c) par (1) amended L.L. 34/2002 § 18, eff. Nov. 7, 2002.

Subd. (d) amended chap 107/2003 § 22, eff. July 1, 2003.

Subd. (d) amended chap 472/2000 § 49, eff. Nov. 1, 2000, with special

provisions. [See Note to § 11-503]

Subd. (d) amended L.L. 56/1989 § 1.

Subd. (d) amended L.L. 20/1986 § 28.

Subd. (d) par 2 renumbered chap 256/1991 § 10, eff. July 1, 1991.

(formerly par 3)

Subd. (d) par 2 repealed chap 256/1991 § 9, eff. July 1, 1991.

Subd. (d) closing par amended chap 256/1991 § 11, eff. July 1, 1991.

Subd. (f) amended chap 825/1986 § 5.

Subd. (g) amended chap 472/2000 § 50, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (g) amended L.L. 20/1986 § 28.

Subd. (h) amended L.L. 20/1986 § 28.

Subd. (i) amended chap 472/2000 § 51, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (i) amended chap 825/1986 § 5.

Subd. (i) amended L.L. 20/1986 § 28.

Subd. (i) par (1) amended chap 255/2007 § 7, eff. July 18, 2007.

Subd. (i) par (1) amended chap 149/2005 § 8, eff. June 30, 2005.

Subd. (i) par (1) amended chap 107/2003 § 23, eff. July 1, 2003.

Subd. (i) par (1) amended chap 114/2002 § 8, eff. June 28, 2002.

Subd. (i) par (3) amended chap 255/2007 § 8, eff. July 18, 2007.

Subd. (i) par (3) amended chap 149/2005 § 9, eff. June 30, 2005.

Subd. (i) par (3) amended chap 107/2003 § 24, eff. July 1, 2003.

Subd. (i) par (3) amended chap 114/2002 § 9, eff. June 28, 2002.

Subd. (i) par (3) amended chap 256/1991 § 12, eff. July 1, 1991.

Subd. (i) par (5) amended chap 255/2007 § 9, eff. July 18, 2007.

Subd. (i) par (5) amended chap 149/2005 § 10, eff. June 30, 2005.

Subd. (i) par (5) amended chap 107/2003 § 25, eff. July 1, 2003.

Subd. (i) par (5) amended chap 114/2002 § 10, eff. June 28, 2002.

Subd. (j) amended chap 107/2003 § 26, eff. July 1, 2003.

Subd. (j) amended L.L. 34/2002 § 18, eff. Nov. 7, 2002.

Subd. (j) amended chap 472/2000 § 52, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (j) amended L.L. 20/1986 § 28.

Subd. (k) amended chap 472/2000 § 53, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (k) added L.L. 20/1986 § 29.

Subd. (l) repealed and added chap 472/1000 § 54, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (l) added L.L. 20/1986 § 29.

Subd. (m) repealed and added chap 472/1000 § 54, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (m) added L.L. 20/1986 § 29.

Subd. (n) "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. (n) added L.L. 56/1989 § 2.

Subd. (o) amended chap 107/2003 § 27, eff. July 1, 2003.

Subd. (o) repealed and added chap 472/2000 § 55, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (o) added L.L. 56/1989 § 2.

Subd. (p) added chap 256/1991 § 13, eff. July 1, 1991.

Subd. (q) added chap 256/1991 § 13, eff. July 1, 1991.

Subd. (r) amended chap 472/2000 § 56, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (r) added chap 256/1991 § 13, eff. July 1, 1991.

Subd. (r) par (1) amended L.L. 52/2003 § 8, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. (r) par (1) "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. (s) amended chap 472/2000 § 57, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (s) added chap 256/1991 § 13, eff. July 1, 1991.

Subd. (s) closing par amended chap 257/1991 § 2, eff. July 1, 1991.

Subd. (t) amended L.L. 34/2002 § 18, eff. Nov. 7, 2002.

Subd. (t) added chap 472/2000 § 58, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (u) added chap 472/2000 § 58, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (v) added chap 107/2003 § 28, eff. July 1, 2003.

DERIVATION

Formerly § 1322 added LL 54/1985 § 6

Subs c, d, g, h, i, j amended LL 20/1986 § 13

Subs k, l, m added LL 20/1986 § 14

Subs c, f, i amended chap 825/1986 § 3

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-602

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6 REBATES OF CHARGES FOR ENERGY

§ 22-602 Requirement of special rebates and discounts.

(a)(1) Utilities that provide energy services within the city of New York shall be required to make special rebates to eligible energy users and on-site cogenerators certified after June thirtieth, two thousand three, other than clean on-site cogenerators, and to make discounts to vendors of energy services and the New York public utility service as follows:

(i) a utility that sells energy services to an eligible energy user shall be required to make a special rebate to such eligible energy user equal to the product of the applicable percentage specified for special rebates in the schedule contained in paragraph four of this subdivision and the eligible charges for such energy services.

(ii) a utility that delivers natural gas to an on-site cogenerator, other than a clean on-site cogenerator, that uses such gas to produce electricity used by an eligible energy user, which cogenerator and user are certified after June thirtieth, two thousand three, shall be required to make a special rebate to such on-site cogenerator equal to the product of the applicable percentage specified for special rebates in the schedule contained in paragraph four of this subdivision and the eligible on-site cogenerator charges for the energy services related to such delivery of such gas.

(iii) a utility that sells energy services to a vendor of energy services shall be required to make a discount to such vendor in an amount equal to the sum of the special rebates certified to such utility by such vendor as having been made by such vendor to eligible energy users in accordance with subparagraphs (i) through (iii) of paragraph three of this subdivision.

(iv) a utility that sells energy services to a public utility service shall be required to make a discount to such

public utility service in an amount equal to the sum of the special rebates and discounts certified to such utility by such public utility service as having been made by such public utility service in accordance with subparagraphs (i) through (iii) of paragraph two of this subdivision.

(2) A public utility service providing energy services within the city of New York shall be required to make special rebates to eligible energy users and qualified eligible energy users and discounts to vendors of energy services as follows:

(i) where, pursuant to a written agreement between a public utility service and the power authority of the state of New York, such public utility service sells energy services to an eligible energy user that has been individually approved by such power authority and certified pursuant to subdivision (c) of this section prior to November first, two thousand, such special rebate shall be in the amount or amounts derived by calculating the full amount of the special rebate to which such eligible energy user would have been entitled pursuant to the schedule contained in paragraph four of this subdivision for eligible charges relating to the purchase of such energy services had such eligible energy user purchased such energy services directly from the utility and subtracting from such full amount the difference between the eligible charges relating to the purchase of such energy services had such eligible energy user purchased the energy services directly from the utility and the eligible public utility service charges relating to the purchase of such energy services actually charged to such eligible energy user by such public utility service for actual purchases of energy services from such public utility service; except that (A) in no event shall the amount of such special rebate exceed the amount of the special rebate to which such eligible energy user would have been entitled pursuant to the schedule contained in paragraph four of this subdivision had such eligible energy user purchased the energy services directly from the utility at the price charged by such utility, and (B) for any monthly billing period where the calculation of such special rebate results in a negative number, the amount of such special rebate shall be deemed to be zero.

(ii) where, pursuant to a written agreement between a public utility service and the power authority of the state of New York, such public utility service (A) sells energy services to an eligible energy user that has been individually approved by such power authority and certified pursuant to subdivision (c) of this section after October thirty-first, two thousand, or (B) sells energy services to a qualified eligible energy user that has been individually approved by such power authority and certified pursuant to subdivision (c) of this section prior to November first, two thousand, such special rebate shall be the product of the applicable percentage for special rebates specified in the schedule contained in paragraph four of this subdivision and the eligible public utility service charges for such energy services.

(iii) a public utility service that sells energy services to a vendor of energy services shall be required to make a discount to such vendor of energy services equal to the sum of the special rebates certified to such public utility service by such vendor as having been made by such vendor to eligible energy users or qualified eligible energy users to which such vendor of energy services has resold such energy services in accordance with subparagraphs (i) through (iii) of paragraph three of this subdivision.

(3) Vendors of energy services may elect to provide a special rebate against an eligible energy user's, qualified eligible energy user's or on-site cogenerator's bill for energy services as follows:

(i) in the case of a vendor of energy services that sells energy services provided by a utility to an eligible energy user, such special rebate shall be the product of the applicable percentage specified for a special rebate in the schedule contained in paragraph four of this subdivision and the eligible charges for such sales of energy services made by such vendor of energy services.

(ii) in the case of a vendor of energy services that delivers natural gas to an on-site cogenerator that is other than a clean on-site cogenerator and that uses such gas to produce electricity used by an eligible energy user, which cogenerator and user are certified after June thirtieth, two thousand three, such special rebate shall be equal to the product of the applicable percentage specified in the schedule contained in paragraph four of this subdivision and the eligible on-site cogenerator charges for the energy services related to such delivery of such gas.

(iii) in the case of a vendor of energy services that sells energy services provided by a public utility service to a qualified eligible energy user that was certified prior to November first, two thousand, or to an eligible energy user that was certified after October thirty-first, two thousand, such special rebate shall be the product of the applicable percentage specified for a special rebate in the schedule contained in paragraph four of this subdivision and the eligible public utility service charges for sales of energy services made by such vendor of energy services.

(4) For purposes of determining special rebates for energy services relating to electricity and natural gas under the provisions of this subdivision, the applicable percentages are as follows:

Months Following Certification	Applicable % for Natural Gas	Applicable % for Electricity
first through ninety-sixth	35%	45%
ninety-seventh through one hundred eighth	28%	36%
one hundred ninth through one hundred twentieth	21%	27%
one hundred twenty-first through one hundred thirty-second	14%	18%
one hundred thirty-third through one hundred forty-fourth	7%	9%

; provided, however, that the commissioner of the department of small business services may increase such percentages at the commissioner's discretion in order to maintain the special rebate at levels comparable to those historically provided under the program, pursuant to rules that are generally applicable to distinct classes of energy users.

(5) A utility that delivers natural gas to an on-site cogenerator that produces electricity for an eligible energy user, which cogenerator and user are certified before July first, two thousand three, or to a clean on-site cogenerator that produces electricity for an eligible energy user, shall be required to make special rebates against the energy bill rendered to such on-site cogenerator or clean on-site cogenerator by such utility for the sale or delivery, or both, of such gas in the amount or amounts derived by taking the product of a base adjustment multiplied by an eligibility factor, multiplied by the number of kilowatt hours of electricity produced by such on-site cogenerator or clean on-site cogenerator and used by such eligible energy user during the billing period, excluding charges for natural gas used to generate electricity used for heating any premises or by any energy user not located on the same site, any special charges on such bill, including but not limited to, collection charges, late payment charges, excess distribution charges, and charges for energy which is resold; where the base adjustment shall equal three cents increased by nine one-hundredths cent each January first occurring after December thirty-first, nineteen hundred eighty-seven, and ending on June thirtieth, two thousand three, and the eligibility factor shall equal one hundred percent during the first eight years after initial certification as an eligible energy user as defined in paragraphs one and two of subdivision (d) of section 22-601 of this chapter, eighty percent during the ninth such year, sixty percent during the tenth such year, forty percent during the eleventh such year and twenty percent during the twelfth and final such year, such years to be calculated in accordance with the provisions of this section, provided that the number of kilowatt hours on which the total of the special rebates payable to a clean on-site cogenerator is based in any year pursuant to this paragraph shall not exceed thirteen million one hundred forty thousand.

(6) Notwithstanding any provision of this subdivision, the special rebates and discounts provided by the Long Island Power Authority, or its subsidiary, pursuant to this subdivision shall not exceed the amount of the payment made by or on behalf of such authority to the city of New York as a payment that is equivalent to the tax imposed by such city pursuant to chapter eleven of title eleven of the code. Special rebates and discounts shall be reduced and/or allocated proportionate to the benefit they would otherwise be eligible for among eligible energy users, public utility services, vendors of energy services, and on-site cogenerators where necessary to comply with this paragraph pursuant to rules of

the commissioner of the department of small business services.

(7) Notwithstanding any provisions of this subdivision, special rebates and discounts shall not exceed ten thousand dollars per year per employee or full-time equivalent with respect to applications certified pursuant to this chapter after June thirtieth, two thousand three.

(b) Eligible energy users meeting the criteria in paragraph one of subdivision (d) and qualified eligible energy users meeting the criteria in paragraph one of subdivision (r) of section 22-601 of this chapter shall be eligible for special rebates for a period not to exceed one hundred forty-four months calculated from the beginning of the month immediately following their date of certification of eligibility. Eligible energy users meeting the criteria of paragraph two of subdivision (d) of section 22-601 of this chapter shall be eligible for special rebates for a period calculated from the beginning of the month immediately following their date of certification for so long as they remain in occupancy in the specially eligible premises, but not beyond the period of one hundred forty-four months from the beginning of the month immediately following the date of certification of the first eligible energy user occupying such specially eligible premises. The amounts of rebates made to such an eligible energy user meeting the criteria of such paragraph two shall be determined in accordance with the schedule contained in paragraph four of subdivision (a) of this section as if such eligible energy user had been certified at the same time as such first eligible energy user was certified. A qualified eligible energy user that takes occupancy of targeted eligible premises shall be eligible for special rebates for a period calculated from the beginning of the month immediately following its date of certification as a qualified eligible energy user for so long as it remains in occupancy in the targeted eligible premises, but not beyond the period of one hundred forty-four months from the beginning of the month immediately following the date of certification of the first qualified eligible energy user occupying such targeted eligible premises. The amounts of rebates made to a qualified eligible energy user that takes occupancy of targeted eligible premises shall be determined in accordance with the schedule contained in paragraph four of subdivision (a) of this section as if such qualified eligible energy user had been certified at the same time as such first qualified eligible energy user was certified. An on-site cogenerator or clean on-site cogenerator shall be eligible for special rebates for a period not to exceed the period during which the eligible energy user served by such on-site cogenerator or clean on-site cogenerator would have been eligible for a special rebate under the provisions of this subdivision had it purchased energy services directly from a utility.

(c)(1) No eligible energy user, qualified eligible energy user, on-site cogenerator, clean on-site cogenerator or special eligible energy user shall receive a rebate pursuant to this chapter until it has obtained a certification as an eligible energy user, qualified eligible energy user, on-site cogenerator, clean on-site cogenerator or special eligible energy user, respectively, from the commissioner of small business services. No such certification for a qualified eligible energy user shall be issued on or after July first, two thousand three. No such certification of any other eligible energy user, on-site cogenerator or clean on-site cogenerator shall be issued on or after July first, two thousand ten. The commissioner of small business services, after notice and hearing, may revoke a certification issued pursuant to this subdivision where it is found that eligibility criteria have not been met or that compliance with conditions for continued eligibility has not been maintained. The corporation counsel may maintain a civil action to recover an amount equal to any benefits improperly obtained.

(2) A utility and a vendor of energy services shall keep records of all transactions subject to this article and make such records available to the department of small business services.

(d) (1) Utilities subject to the provisions of subdivision (a) of this section shall reduce each bill for energy services or natural gas for each eligible energy user, vendor of energy services, on-site cogenerator or clean on-site cogenerator as follows:

(i) a bill for the sale and delivery of natural gas rendered to an on-site cogenerator or clean on-site cogenerator entitled to a special rebate pursuant to the provisions of paragraph five of subdivision (a) of this section shall be reduced by the full amount of the special rebate that shall have accrued for the period covered by each such bill;

(ii) a bill for energy services rendered to any other eligible energy user or on-site cogenerator shall be reduced by the full amount of the special rebate that shall have accrued for the period covered by each such bill.

(iii) a bill for energy services rendered to a vendor of energy services that has provided a special rebate to an eligible energy user or on-site cogenerator shall be reduced by such utility in accordance with paragraph three of subdivision (a) of this section by the aggregate amount of all such special rebates;

(iv) provided, however, such utility shall not be required to provide a special rebate or discount in an amount that exceeds the amount of such bill for the sale and delivery of natural gas rendered to an on-site cogenerator or clean on-site cogenerator entitled to a special rebate pursuant to the provisions of paragraph five of subdivision (a) of this section or, in the case of any other eligible energy user or on-site cogenerator, the amount of such bill for energy services, and provided, further, that no utility subject to the provisions of subdivision (a) of this section shall be required to carry forward on its books and records any special rebate or discounts not made in accordance with this sentence to such bills for subsequent periods. Such discount shall be made within four months from the time certification of special rebates is made in accordance with subparagraph (iii) or (iv) of paragraph one of subdivision (a) of this section. Such amount shall be separately stated and shown on each bill.

(2) A public utility service that provides special rebates for eligible energy users or qualified eligible energy users shall reduce each bill rendered to each such user by the full amount of the special rebate that shall have accrued for the period covered by each such bill in accordance with paragraph two of subdivision (a) of this section. Such amounts shall be separately stated and shown on such bills.

(3) Each such vendor of energy services that has elected to provide special rebates for eligible energy users, qualified eligible energy users or on-site cogenerators shall reduce each bill rendered to each such energy user or cogenerator by the full amount of the special rebate that shall have accrued for the period covered by each such bill in accordance with paragraph three of subdivision (a) of this section. Such amounts shall be separately stated and shown on such bills.

(e) The commissioner of small business services shall, for the purpose of calculating eligible charges, eligible public utility service charges and eligible on-site cogenerator charges, promulgate rules to determine that portion of such charges that shall be deemed attributable to energy services or natural gas used for heating the premises. He or she shall, in addition, promulgate any other rules and regulations necessary to effectuate the purposes of this chapter, including rules to determine the extent to which charges are eligible charges, eligible public utility service charges or eligible on-site cogenerator charges and rules to provide for such administrative charges or fees as are necessary to defray expenses in administering the special rebates and discounts provided pursuant to this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 20/1986 § 30.

Subd. (a) amended chap 107/2003 § 29, eff. July 1, 2003.

Subd. (a) repealed and added chap 472/2000 § 59, eff. Nov. 1, 2000, with

special provisions. [See Note to § 11-503]

Subd. (a) par (2) amended chap 256/1991 § 14, eff. July 1, 1991.

Subd. (a) par (2) amended chap 825/1986 § 6.

Subd. (a) par (4) amended L.L. 34/2002 § 19, eff. Nov. 7, 2002.

Subd. (a) pars (6), (7) added chap 107/2003 § 30, eff. July 1, 2003.

Subd. (b) amended chap 107/2003 § 31, eff. July 1, 2003.

Subd. (b) amended chap 472/2000 § 60, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (b) amended chap 256/1991 § 15, eff. July 1, 1991.

Subd. (c) amended (without laying out (c)) L.L. 34/2002 § 20, eff. Nov. 7, 2002.

Subd. (c) amended chap 472/2000 § 61, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (c) amended chap 103/2000 § 5, eff. June 23, 2000 and deemed in effect from and after July 1, 2000.

Subd. (c) amended chap 154/1999 § 5, eff. July 1, 1999.

Subd. (c) amended chap 676/1993 § 2, eff. Aug. 4, 1993.

Subd. (c) amended chap 256/1991 § 16, eff. July 1, 1991.

Subd. (c) amended L.L. 56/1989 § 3.

Subd. (c) par (1) amended chap 255/2007 § 10, eff. July 18, 2007.

Subd. (c) par (1) amended chap 149/2005 § 11, eff. June 30, 2005.

Subd. (c) par (1) amended chap 107/2003 § 32, eff. July 1, 2003.

Subd. (c) par (1) amended chap 114/2002 § 11, eff. June 28, 2002.

Subd. (d) amended chap 472/2000 § 62, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

Subd. (d) par (1) amended chap 107/2003 § 33, eff. July 1, 2003.

Subd. (e) amended chap 107/2003 § 34, eff. July 1, 2003.

Subd. (e) amended L.L. 34/2002 § 21, eff. Nov. 7, 2002.

Subd. (e) amended chap 472/2000 § 63, eff. Nov. 1, 2000, with special provisions. [See Note to § 11-503]

DERIVATION

Formerly § 1323 added LL 54/1985 § 6

Amended LL 20/1986 § 15

Sub a par 2 amended chap 825/1986 § 4

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-603

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6 REBATES OF CHARGES FOR ENERGY

§ 22-603 Construction.

Nothing contained in this title shall be construed as reducing the amount of a receipt for sales tax purposes under any of the sales taxes imposed or authorized by article twenty-eight or twenty-nine of the tax law, or as reducing the gross income of the gross operating income subject to tax pursuant to chapter eleven of title eleven of this code. The burden of establishing eligibility to receive the benefits of this chapter shall rest with the party claiming such benefits.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1324 added LL 54/1985 § 6

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-611

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6-A*4 REBATE OF AMOUNT OF LOCAL SALES TAX PAID ON SALES OF ENERGY

§ 22-611 Definitions.

HISTORICAL NOTE

Section repealed L.L. 46/1990 § 13 eff. July 1, 1990.

Section added L.L. 49/1987 § 11.

FOOTNOTES

4

[Footnote 4]: * Chapter added L.L. 49/1987 § 11 and repealed L.L. 46/1990 § 13 eff. July 1, 1990.

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NYC Administrative Code 22-612

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Title 22 Economic Affairs

CHAPTER 6-A*4 REBATE OF AMOUNT OF LOCAL SALES TAX PAID ON SALES OF ENERGY

§ 22-612 Requirement and authorization of rebates for sales tax paid.

HISTORICAL NOTE

Section repealed L.L. 46/1990 § 13 eff. July 1, 1990.

Section added L.L. 49/1987 § 11.

Subd. (a) repealed and added L.L. 42/1988 § 9.

FOOTNOTES

4

[Footnote 4]: * Chapter added L.L. 49/1987 § 11 and repealed L.L. 46/1990 § 13 eff. July 1, 1990.

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Title 22 Economic Affairs

CHAPTER 6-A*4 REBATE OF AMOUNT OF LOCAL SALES TAX PAID ON SALES OF ENERGY

§ 22-613 Construction.

HISTORICAL NOTE

Section repealed L.L. 46/1990 § 13 eff. July 1, 1990.

Section added L.L. 49/1987 § 11.

FOOTNOTES

4

[Footnote 4]: * Chapter added L.L. 49/1987 § 11 and repealed L.L. 46/1990 § 13 eff. July 1, 1990.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-621

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6-B RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM

§ 22-621 Definitions.

When used in this chapter the following terms shall have the following meanings:

(a) "Eligible Business." Any person subject to a tax imposed under chapter five, or subchapter two or three of chapter six, or chapter eleven, of title eleven of the code, that: (1) has been conducting substantial business operations at one or more business locations outside the eligible area for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (j) of this section; and (2) on or after May twenty-seventh, nineteen hundred eighty-seven relocates as defined in subdivision (j) of this section all or part of such business operations; and (3) either (i) on or after May twenty-seventh, nineteen hundred eighty-seven first enters into a contract to purchase or lease the premises to which it relocates as defined in subdivision (j) of this section, or a parcel on which will be constructed such premises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven owns such parcel or premises and has not prior to such date made application for benefits pursuant to part four of subchapter two of chapter two of title eleven of the code.

(b) "Person." Includes any individual, partnership, association, joint-stock company, corporation, estate or trust, limited liability company, and any combination of the foregoing.

(c) "Retail activity." Any activity which consists predominantly of the sale, other than through the mail or by the telephone or by means of the internet, of tangible personal property to any person, for any purpose unrelated to the trade or business of such person, or which consists predominately of the selling of services to individuals which generally involve the physical, mental and/or spiritual care of such individuals, or the physical care of the personal property of any person unrelated to the trade or business of such person, or which consists predominately of the provision of retail

banking services.

(d) "Hotel services." Any services which consist predominantly of the lodging of guests at a building or a portion thereof which is regularly used and kept open for such services. The term "hotel services" shall include the lodging of guests at an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(e) "Eligible premises." (1) Non-residential premises which are wholly contained in real property which is certified as eligible to receive benefits pursuant to part three or part four of subchapter two of chapter two of title eleven of the code, provided that such premises have been improved by construction or renovation, that expenditures have been made for improvements to such real property in excess of fifty per centum or, in the case of industrial property, in excess of twenty-five per centum, of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced and such expenditures have been made within thirty-six months or, in the case of expenditures for such improvements to such real property in excess of fifty million dollars within seventy-two months from such commencement and, provided further, that such real property is located in the eligible area;

(2) non-residential premises which are: (i) wholly contained in or situated on real property which has been leased from the New York city industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such premises were constructed or renovated subsequent to the approval of such construction or renovation by such agency, or (ii) wholly contained in or situated on real property owned by the city, a lease for which was approved in accordance with the applicable provisions of the charter, provided that such premises were constructed or renovated subsequent to such approval, or (iii) wholly contained in or situated on real property which has been leased from the port authority of the state of New York and New Jersey or the New York state urban development corporation, or a subsidiary thereof, provided that such premises were constructed or renovated subsequent to the execution of such lease, or (iv) wholly contained in real property which would be eligible to receive benefits pursuant to part four of subchapter two of chapter two of title eleven of the code except that such property is exempt from real property taxation; provided that expenditures have been made for improvements to such real property in excess of fifty per centum or, in the case of industrial property, in excess of twenty-five per centum, of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced and such expenditures have been made within thirty-six months or, in the case of expenditures for such improvements to such real property in excess of fifty million dollars within seventy-two months from the date of such commencement, and provided further that such real property is located in the eligible area; or

(3) in the case of a relocation, the date of which, as determined pursuant to subdivision (j) of this section, is on or after July first, two thousand three, non-residential premises, located in an eligible area, for which a minimum expenditure has been made after July first, two thousand three, for improvements in excess of twenty-five dollars per square foot, provided, however, that if such premises are leased, such lease shall have a term that does not expire until at least three years after the later of the date of relocation and the lease commencement date.

The determination of whether premises meet the requirements for eligibility set forth in this subdivision shall be made as of the effective date of the certification of eligibility issued pursuant to section 22-622 of this chapter. Notwithstanding the provisions of paragraphs one and two of this subdivision, if, subsequent to such date, the property in which such premises are contained ceases to meet the requirements of paragraph one or two of this subdivision, such premises shall nonetheless remain eligible premises, provided that the eligible business continues to occupy such eligible premises; provided however that if, after such property ceases to meet the requirements of paragraph one or two, an eligible business first leases or purchases additional premises contained in such property, such additional premises shall not be considered eligible premises unless they meet the requirements of paragraph three of this subdivision.

(f) "Eligible area." The area of the city excluding that area lying south of the center line of 96th Street, in the borough of Manhattan.

(g) "Employment share." For each employee, partner or sole proprietor of an eligible business, the sum of: (1) the number of full-time work weeks worked by such employee, partner or sole proprietor during the eligible business' taxable year divided by the number of weeks in the taxable year, and (2) the number of part-time work weeks worked by such employee, partner or sole proprietor during the eligible business' taxable year divided by an amount equal to twice the number of weeks in the taxable year. For purposes of this subdivision, "full-time work week" shall mean a week during which at least thirty-five hours of gainful work has been performed by such employee, partner or sole proprietor and "part-time work week" shall mean a week during which at least fifteen but less than thirty-five hours of gainful work has been performed by such employee, partner or sole proprietor.

(h) "Aggregate employment shares." The sum of all employment shares maintained by an eligible business in a taxable year.

(i) "Eligible aggregate employment shares." The amount, if any, by which the number of aggregate employment shares maintained by an eligible business in the eligible area in the taxable year in which such eligible business claims a credit pursuant to section 22-622 of this chapter exceeds the number of aggregate employment shares maintained by an eligible business in the eligible area in the taxable year immediately preceding the taxable year during which such eligible business first relocates as defined in subdivision (j) of this section. Provided, however, that such amount shall not exceed the lesser of: (1) in the case of particular premises to which an eligible business relocates before July first, two thousand three, the highest number of aggregate employment shares maintained by such eligible business in such premises in the taxable year during which such eligible business relocates to such premises or in any of the three immediately succeeding taxable years, exclusive of any employment shares maintained by such eligible business in such premises in the taxable year immediately preceding the taxable year during which such eligible business relocates to such premises; or in the case of particular premises to which an eligible business relocates on or after July first, two thousand three, the highest number of aggregate employment shares maintained by such eligible business in such premises in the taxable year during which such eligible business relocates to such premises or in any of the five immediately succeeding taxable years, exclusive of any employment shares maintained by such eligible business in such premises in the taxable year immediately preceding the taxable year during which such eligible business relocates to such premises; or (2) the number of aggregate employment shares maintained by such eligible business in such premises in the taxable year in which such eligible business claims a credit pursuant to such section 22-622, exclusive of any employment shares maintained by such eligible business in such premises in the taxable year immediately preceding the taxable year during which such eligible business relocates to such premises; or (3) in the case of an eligible business that has relocated as determined pursuant to subdivision (j) of this section before July first, two thousand three, and has not relocated on or after July first, two thousand three, twice the number of aggregate employment shares maintained by such eligible business outside the eligible area in the taxable year immediately preceding the taxable year during which such eligible business first relocates or, in the case of an eligible business that has relocated as determined pursuant to subdivision (j) of this section on or after July first, two thousand three, the greater of one hundred aggregate employment shares and twice the number of aggregate employment shares maintained by such eligible business outside the eligible area in the taxable year immediately preceding the taxable year during which such eligible business first relocates. If an eligible business relocates to more than one particular premises, the amounts described in paragraphs one and two of this subdivision shall be determined separately with respect to each such particular premises, and in such case the total number of eligible aggregate employment shares for such eligible business shall not exceed the lesser of the amount determined pursuant to paragraph three of this subdivision or the sum of the lesser of the amounts determined pursuant to paragraphs one and two of this subdivision for each particular premises.

(j) "Relocate." To transfer pre-existing business operations to premises that are or will become eligible premises in accordance with subdivision (e) of this section, or to establish new business operations at such premises, provided that an eligible business shall not be deemed to have relocated unless at least one employee, partner or sole proprietor of the eligible business is transferred to such premises from pre-existing business operations conducted outside the eligible area. The date of relocation to any particular premises shall be any date elected by the eligible business on which an

employee, partner or sole proprietor of the eligible business is transferred to the particular premises from pre-existing business operations conducted outside the eligible area and begins work at such premises, provided that such date is subsequent to the date of commencement of improvements to such premises the real property in which such premises are located, which improvements will meet the requirements of subdivision (e) of this section relating to expenditures for improvements, and provided further that such date is prior to the date of the issuance of a certification of eligibility pursuant to section 22-622 of this chapter. The year of relocation shall be the taxable year in which such date of relocation falls. The election provided for in this subdivision shall be made prior to the issuance of such certification of eligibility and shall be irrevocable. An eligible business may relocate only once to any particular premises.

(k) "Industrial construction work." The construction of a new building or structure or the modernization, rehabilitation, expansion or improvement of an existing building or structure for use as industrial property.

(l) "Industrial property." Nonresidential real property containing or which will contain after the completion of industrial construction work a building or structure wherein at least seventy-five percent of the total net square footage is used or immediately available and held out for use for manufacturing activities involving the assembly of goods or the fabrication or processing of raw materials.

(m) "Tax year" and "taxable year." For purposes of this chapter, in the case of taxpayers authorized to receive the credit allowed by section 22-622 of this chapter against the tax imposed by chapter eleven of title eleven of the code, calendar year.

(n) "Revitalization area" means any district in the city of New York that is zoned C4, C5, C6, M1, M2 or M3 in accordance with the zoning resolution of such city in any area of such city except the area lying south of the center line of 96th Street in the borough of Manhattan.

(o) "Total attributed eligible aggregate employment shares" means, for any relocation, the sum of the number of eligible aggregate employment shares apportioned to such relocation pursuant to paragraph one of this subdivision, less any excess shares determined with respect to such relocation pursuant to paragraph two of this subdivision, plus any excess shares attributed to such relocation pursuant to paragraph three of this subdivision. Except as provided in paragraph four of this subdivision, any eligible aggregate employment shares that are attributed to a relocation to particular premises pursuant to paragraph three of this subdivision shall be treated as eligible aggregate employment shares that are maintained with respect to such premises and shall be subject to all provisions of this chapter and the provisions for a credit against a tax imposed under chapter five or subchapter two or three of chapter six or chapter eleven of title eleven of the code as such provisions pertain to such relocation.

(1) In the case of a business that has relocated once, all eligible aggregate employment shares are apportioned to the premises to which the single relocation took place. In the case of a business that has relocated more than once, eligible aggregate employment shares are apportioned as follows:

(i) If in a taxable year, the sum for all eligible premises of the lesser of the amounts determined pursuant to paragraphs one and two of subdivision (i) of this section for each particular eligible premises is equal to the total number of eligible aggregate employment shares determined pursuant to such subdivision (i), the number of shares apportioned to each particular eligible premises is the lesser of such amounts for each particular eligible premises;

(ii) If in a taxable year, the sum for all eligible premises of the lesser of the amounts determined pursuant to paragraphs one and two of subdivision (i) of this section for each particular eligible premises is greater than the total number of eligible aggregate employment shares determined pursuant to such subdivision (i), the number of shares apportioned to a particular eligible premises shall be such total number of eligible aggregate employment shares multiplied by a fraction the numerator of which is the lesser of the amounts determined pursuant to paragraphs one and two of subdivision (i) of this section for such premises and the denominator of which is such sum.

(2) "Excess shares" shall mean eligible aggregate employment shares that are apportioned pursuant to paragraph

one of this subdivision to a relocation in excess of the limitation amount defined in subparagraphs (i) and (ii) of this paragraph for such relocation.

(i) Subject to the provisions of subparagraph (ii) of this paragraph, for any taxable year in which an eligible business is claiming the credit allowed by section 22-622 of this chapter, the "limitation amount" shall mean:

(A) for one or more relocations in an eligible business' latest year of relocation as determined pursuant to subdivision (j) of this section, the amount, if any, by which the number of aggregate employment shares maintained by the eligible business in the eligible area in the taxable year in which it is claiming the credit authorized by this article exceeds the number of aggregate employment shares maintained by it in the eligible area in the taxable year immediately preceding such year of relocation; or

(B) for one or more relocations in a specified year of relocation that is not the latest such year of relocation by an eligible business, the amount, if any, by which the number of aggregate employment shares maintained by the eligible business in the eligible area in the taxable year in which it is claiming the credit authorized by this chapter exceeds the sum of (I) the number of total attributed eligible aggregate employment shares that are attributed in the taxable year in which the credit is claimed to relocations that took place in years of relocation later than the specified year of relocation and (II) the number of aggregate employment shares maintained by it in the eligible area in the taxable year immediately preceding such specified year of relocation.

(ii) In the case of an eligible business that has relocated more than once in the same taxable year, the limitation amount determined in accordance with subparagraph (i) of this paragraph shall be applied to such relocations in the same proportion as the eligible aggregate employment shares apportioned to such relocations pursuant to paragraph one of this subdi- vision.

(3)(i) In any taxable year in which there are excess shares, such excess shares, or a portion thereof, from a relocation or relocations that took place in a specified year of relocation shall be attributed in reverse chronological order to any relocations that took place in earlier years of relocation.

(ii) Notwithstanding subparagraph (i) of this paragraph,

(A) no excess shares may be attributed to a relocation unless the number of eligible aggregate employment shares apportioned pursuant to paragraph one of this subdivision to such relocation for the taxable year in which the credit is claimed is less than the highest number of total attributed eligible aggregate employment shares pertaining to such relocation in any taxable year prior to the taxable year in which the credit is claimed; (B) the sum of the number of shares attributed to such relocation pursuant to subparagraph (i) of this paragraph and the eligible aggregate employment shares apportioned to any such relocation pursuant to paragraph one of this subdivision may not exceed such highest number of total attributed eligible aggregate employment shares; and

(C) such sum may not exceed the limitation amount for such relocation defined in paragraph two of this subdivision.

(4) Notwithstanding the provisions of other paragraphs of this subdivision, any excess shares that are apportioned pursuant to paragraph one of this subdivision to a relocation to particular eligible premises that are not located in a revitalization area as defined in subdivision (n) of this section, but are attributed pursuant to paragraph three of this subdivision to particular eligible premises that are located in such a revitalization area, shall be treated as if such premises to which they are attributed were not in such a revitalization area.

(p) "Particular premises" means all premises occupied by an eligible business within a single building. "Particular eligible premises" means the portion of such particular premises that meets the requirements for eligible premises specified in subdivision (e) of this section.

(q) "Designated additional or replacement premises" means nonresidential premises in the eligible area that (i) are owned or leased by an eligible business that has been certified pursuant to subdivision (b) of section 22-622 of this chapter to receive the credit provided for in this chapter, and (ii) with regard to which such eligible business obtains the certification provided for in subdivision (e) of section 22-622 of this chapter.

HISTORICAL NOTE

Section added L.L. 50/1987 § 7.

Subd. (a) amended chap 149/1999 § 12, eff. July 1, 1999.

Subds. (a), (c) amended chap 425/1990 §§ 14, 15 retro to July 29, 1987.

Subd. (b) amended chap 143/2004 § 30, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (c) amended chap 143/2004 § 31, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (e) amended chap 143/2004 § 32, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (e) amended chap 4/1995 § 9, eff. Oct. 29, 1995.

Subd. (e) amended chap 425/1990 § 16 retro to July 29, 1987.

Subd. (e) par (1) amended ch. 831/1992 § 4, eff. Aug. 7, 1992.

Subd. (e) par (2) amended ch. 831/1992 § 5, eff. Aug. 7, 1992.

Subds. (g), (i) amended chap 425/1990 §§ 17, 18 retro to July 29, 1987.

Subd. (i) amended chap 143/2004 § 33, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (j) amended chap 143/2004 § 34, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (j) added chap 425/1990 § 19 eff. July 10, 1990, retroactive to July 29, 1987.

Subds. (k), (l) added chap 4/1995 § 10, eff. Oct. 29, 1995.

Subd. (m) added chap 149/1999 § 13, eff. July 1, 1999.

Subd. (n) added chap 261/2000 § 14, eff. Aug. 16, 2000.

Subd. (o) added chap 143/2004 § 35, eff. July 6, 2004 and deemed to

have been in full force and effect on and after July 1, 2003.

Subd. (p) added chap 143/2004 § 36, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (q) added chap 143/2004 § 36, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

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Title 22 Economic Affairs

CHAPTER 6-B RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM

§ 22-622 Authorization to provide relocation and employment assistance credits.

(a) An eligible business that relocates as defined in subdivision (j) of section 22-621 of the code shall be allowed to receive a credit against a tax imposed by chapter five, or subchapter two or three of chapter six, or chapter eleven, of title eleven of the code, as described in subdivision (i) of section 11-503, subdivision seventeen of section 11-604, section 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent subject to tax as described in subdivision f of section 11-704 of the code, provided, however, notwithstanding any other provision of law to the contrary, no such credit shall be allowed against the tax imposed under such chapter eleven for a relocation taking place prior to January first, nineteen hundred ninety-nine.

(b) No eligible business shall be authorized to receive a credit against tax or a reduction in base rent subject to tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand thirteen unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivi- sion (e) of section 22-621 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

(c) The mayor or an agency or agencies designated by the mayor shall be authorized to promulgate rules and regulations to administer and assure compliance with the provisions of this chapter, including but not limited to rules and regulations to provide for alternative methods to measure employment shares in instances where an eligible business is not required by law to maintain weekly records of full-time work weeks and part-time work weeks of employees, partners or sole proprietors as defined in subdivision (g) of section 22-621 of this chapter.

(d) An eligible business other than a utility company subject to the supervision of the department of public service shall not be authorized to receive a credit against the gross receipts tax imposed under chapter eleven of title eleven of the code, unless such eligible business elects to take the credit authorized by this section against the tax imposed by such chapter on an application filed with respect to the first relocation of such business that qualifies or will qualify under this section, with the mayor or the agency designated by such mayor pursuant to subdivision (b) of this section. The election authorized by this subdivision may not be withdrawn after the issuance of such certification of eligibility. No taxpayer that has previously received a certification of eligibility to receive such credit against any tax imposed by chapter five or subchapter two or three of chapter six of title eleven of the code may make the election authorized by this subdivision. No taxpayer that makes the election provided in this subdivision shall be authorized to take such credit against any tax imposed by chapter five or subchapter two or three of chapter six of title eleven of the code.

(e) Notwithstanding other provisions of this chapter, an eligible business that has obtained pursuant to subdivision (b) of this section a certification of eligibility for a relocation to particular eligible premises may apply to the mayor of such city or an agency designated by such mayor to have premises in a building, other than the building in which such particular eligible premises are located, certified as designated additional or replacement premises as defined in subdivision (q) of section 22-621 of this chapter. After the certification provided for in this subdivision has been obtained, any aggregate employment shares maintained by the eligible business in such premises shall be treated as if such employment shares were maintained in the particular premises to which the eligible business relocated. No such certification shall be issued after the end of the period during which the credit may be taken with regard to the relocation to such particular eligible premises, and the issuance of such certification shall not extend such period. Provided, however, (i) no premises shall be certified as designated additional or replacement premises if the eligible business maintained employment shares in such premises prior to the application for certification provided for in this subdivision, (ii) no premises shall be certified as designated additional or replacement premises unless such premises meet the requirements for eligible premises in subdivision (e) of section 22-621 of this chapter, and (iii) if the particular premises to which the eligible business relocated are in a revitalization zone, no premises shall be certified as designated additional or replacement premises with regard to such relocation unless such designated additional or replacement premises are located in a revitalization zone.

(f)(1)(i) Notwithstanding the provisions of subdivision (i) of section 22-621 of this chapter, in the case of an eligible business meeting the criteria in subparagraphs (ii) and (iii) of this paragraph, the mayor or his or her designee, in his or her discretion, may for any taxable year in which such business is eligible to receive the credit provided for in this section, determine the number of eligible aggregate employment shares as provided in paragraph two of this subdivision, and such number shall be deemed to be the number of eligible aggregate employment shares determined pursuant to such subdivision (i) of section 22-621 for the purpose of attributing shares pursuant to subdivision (o) of

section 22-621 of this chapter to relocations as defined in subdivision (j) of such section 22-621 occurring after July first, two thousand three:

(ii) in the case of a relocation before July first, two thousand five, in the taxable year prior to its first relocation after July first, two thousand three (such prior year being hereafter referred to as the "base year"), such eligible business maintained more than one hundred aggregate employment shares in the eligible Lower Manhattan area as defined in subdivision (f) of section 22-623 of this title, provided that in the case of a relocation after June thirtieth, two thousand five, in the taxable year prior to its first relocation after such date (such prior year being hereafter referred to as the "base year"), such eligible business maintained one or more aggregate employment shares in such eligible Lower Manhattan area, and

(iii) in the case of a relocation before July first, two thousand five, in the taxable year subsequent to the base year for which the determination of eligible aggregate employment shares is being made, the number of aggregate employment shares in the eligible Lower Manhattan area maintained by the eligible business is less than the number of aggregate employment shares it maintained in such area in the base year reduced by one hundred, provided that in the case of a relocation after June thirtieth, two thousand five, in the taxable year subsequent to the base year for which the determination of eligible aggregate employment shares is being made, the number of aggregate employment shares in the eligible Lower Manhattan area maintained by the eligible business is less than the number of aggregate employment shares it maintained in such area in the base year.

(2) The number of eligible aggregate employment shares determined under this paragraph shall be the number of eligible aggregate employment shares determined pursuant to subdivision (i) of section 22-621 of this chapter without regard to paragraphs one and three of such subdivision (i), less the reduction amount provided for in paragraph three of this subdivision.

(3) For any taxable year, the reduction amount shall be the excess of (i) the number of aggregate employment shares maintained by the eligible business in the eligible Lower Manhattan area in the base year, over (ii) the number of aggregate employment shares maintained by the eligible business in the eligible Lower Manhattan area in the taxable year.

(4) Notwithstanding anything herein to the contrary, the number of eligible aggregate employment shares may be determined pursuant to paragraph two of this subdivision only if the number of such shares determined pursuant to such paragraph two is less than the number of such shares determined pursuant to subdivision (i) of section 22-621 of this chapter.

(5) The mayor, or his or her designee, may exercise the discretion provided for in paragraph one of this subdivision if he or she determines it to be in the best interests of the city, taking into account whether the credit provided for in this section caused the reduction in the number of jobs maintained by the eligible business in the eligible Lower Manhattan area.

HISTORICAL NOTE

Section amended chap 425/1990 § 20 eff. July 10, 1990 retroactive to

July 29, 1987.

Section added L.L. 50/1987 § 7.

Subd. (a) amended chap 149/1999 § 14, eff. July 1, 1999.

Subd. (b) amended chap 131/2008 § 3, eff. July 1, 2008.

Subd. (b) amended chap 143/2004 § 37, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (b) amended chap 149/1999 § 15, eff. July 1, 1999.

Subd. (b) amended ch. 831/1992 § 6, eff. Aug. 7, 1992.

Subd. (b) pars (3), (4) amended chap 497/2007 § 2, eff. Aug. 1, 2007.

Subd. (b) par (5) added chap 497/2007 § 2, eff. Aug. 1, 2007.

Subd. (d) added chap 149/1999 § 16, eff. July 1, 1999.

Subd. (e) added chap 143/2004 § 38, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (f) added chap 143/2004 § 39, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

Subd. (f) par (1) subpars (ii), (iii) amended chap 2/2005 § E14, eff. Aug. 30, 2005.

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NYC Administrative Code 22-623

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6-C LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM*27

§ 22-623 Definitions.

When used in this chapter the following terms shall have the following meanings:

(a) "Eligible business" means any person subject to a tax imposed under chapter five, or subchapter two or three of chapter six, or chapter eleven, of title eleven of the code, that:

(1) has been conducting substantial business operations at one or more business locations outside the city of New York for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (j) of this section but has not maintained employment shares at premises in the city of New York at any time during the period beginning January first, two thousand two and ending on the date it enters into a lease or a contract to purchase the premises that will qualify as eligible premises pursuant to this chapter; and

(2) on or after July first, two thousand three relocates as defined in subdivision (j) of this section all or part of such business operations.

(b) "Person" includes any individual, partnership, association, joint-stock company, corporation, estate or trust, limited liability company, and any combination of the foregoing.

(c) "Retail activity" means any activity which consists predominately of the sale, other than through the mail, or by the telephone or by means of the internet, of tangible personal property to any person, for any purpose unrelated to the trade or business of such person, or which consists predominately of the selling of services to individuals which

generally involve the physical, mental and/or spiritual care of such individuals, or the physical care of the personal property of any person unrelated to the trade or business of such person, or which consists predominately of the provision of retail banking services.

(d) "Hotel services" means any services which consist predominately of the lodging of guests at a building or a portion thereof which is regularly used and kept open for such services. The term "hotel services" shall include the lodging of guests at an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(e) "Eligible premises" means: (1) Non-residential premises which are wholly contained in real property which is certified as eligible to receive benefits pursuant to part three or part four of subchapter two of chapter two of title eleven of the code, provided that such premises have been improved by construction or renovation, that expenditures have been made after June thirtieth, two thousand three, or in the case of a relocation by a special eligible business, after June thirtieth, two thousand five, for improvements to such real property in excess of fifty per centum or, in the case of industrial property, in excess of twenty-five per centum, of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced and such expenditures have been made within thirty-six months or, in the case of expenditures for such improvements to such real property in excess of fifty million dollars within seventy-two months from such commencement, and, provided further, that such real property is located in the eligible Lower Manhattan area, and provided further, that in the case of a special eligible business, a lease or a contract to purchase such premises is first entered into by the special eligible business after June thirtieth, two thousand five; (2) non-residential premises which are: (i) wholly contained in or situated on real property which has been leased from the New York city industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such premises were constructed or renovated subsequent to the approval of such construction or renovation by such agency, or (ii) wholly contained in or situated on real property owned by the city, a lease for which was approved in accordance with the applicable provisions of the charter, provided that such premises were constructed or renovated subsequent to such approval, or (iii) wholly contained in or situated on real property which has been leased from the port authority of the state of New York and New Jersey or the New York state urban development corporation, or a subsidiary thereof, provided that such premises were constructed or renovated subsequent to the execution of such lease, or (iv) wholly contained in property which would be eligible to receive benefits pursuant to part four of subchapter two of chapter two of title eleven of the code except that such property is exempt from real property taxation; provided that expenditures have been made after June thirtieth, two thousand three, or in the case of a relocation by a special eligible business, after June thirtieth, two thousand five, for improvements to such real property in excess of fifty per centum or, in the case of industrial property, in excess of twenty-five per centum, of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced and such expenditures have been made within thirty-six months or, in the case of expenditures for such improvements to such real property in excess of fifty million dollars within seventy-two months from the date of such commencement, and provided further that such real property is located in the eligible Lower Manhattan area, and provided further, that in the case of a special eligible business, a lease or a contract to purchase such premises is first entered into by the special eligible business after June thirtieth, two thousand five; or

(3) in the case of an eligible business, non-residential premises which are located in the eligible Lower Manhattan area for which a lease or a contract to purchase is first entered into by the eligible business on or after July first, two thousand three and for which a minimum expenditure has been made after such date for improvements in excess of twenty-five dollars per square foot, or in the case of a special eligible business, non-residential premises that are located in the eligible Lower Manhattan area for which a lease or a contract to purchase is first entered into by the eligible business after June thirtieth, two thousand five and for which a minimum expenditure has been made after June thirtieth, two thousand five, for improvements in excess of twenty-five dollars per square foot, provided, however, that, in either case, if such premises are leased, such lease shall have a term that does not expire until at least three years after the later of the date of relocation and the lease commencement date.

Notwithstanding the provisions of paragraphs one and two of this subdivision, if, subsequent to the date of certification, the property in which such premises are contained ceases to meet the requirements of paragraph one or two

of this subdivision, such premises shall nonetheless remain eligible premises, provided that the eligible business or special eligible business continues to occupy such premises; provided however that if, after such property ceases to meet the requirements of paragraph one or two, an eligible business or special eligible business first leases or purchases additional premises contained in such property, such additional premises shall not be considered eligible premises unless they meet the requirements of paragraph three of this subdivision.

(f) "Eligible Lower Manhattan area" means the area in the city of New York in the borough of Manhattan lying south of a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence north along West Street to the intersection of Clarkson Street, then running east along the centerline of Clarkson Street to the intersection of Washington Street, then running south along the centerline of Washington Street to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

(g) "Employment share" means, for each employee, partner or sole proprietor of an eligible business or special eligible business, the sum of: (1) the number of full-time work weeks worked by such employee, partner or sole proprietor during the eligible business' or special eligible business' taxable year divided by the number of weeks in the taxable year, and (2) the number of part-time work weeks worked by such employee, partner or sole proprietor during the eligible business' or special eligible business' taxable year divided by an amount equal to twice the number of weeks in the taxable year. For purposes of this subdivision, "full-time work week" shall mean a week during which at least thirty-five hours of gainful work has been performed by such employee, partner or sole proprietor and "part-time work week" shall mean a week during which at least fifteen but less than thirty-five hours of gainful work has been performed by such employee, partner or sole proprietor. For purposes of this section, employment shares shall not be based upon work weeks attributable to employees, partners or sole proprietors acquired by an eligible business or special eligible business as a result of a merger with, acquisition of another person, or a transaction having a comparable effect, that occurs after June thirtieth, two thousand five, and before the end of the taxable year in which a credit is claimed by such eligible business pursuant to this section, or to successors, if any, to those employees, partners or sole proprietors.

(h) "Aggregate employment shares" means the sum of all employment shares maintained by an eligible business or special eligible business in a taxable year.

(i) (1) "Eligible aggregate employment shares" means, in the case of an eligible business, the amount, if any, of aggregate employment shares maintained by an eligible business in eligible premises in the eligible Lower Manhattan area in the taxable year in which such eligible business claims a credit pursuant to section 22-624 of this chapter. Provided, however, that such amount shall not exceed the lesser of: (i) the highest number of aggregate employment shares maintained by such eligible business in eligible premises in the taxable year during which such eligible business relocates or in any of the five immediately succeeding taxable years; or (ii) the greater of one hundred aggregate employment shares and twice the number of aggregate employment shares maintained by such eligible business outside the city of New York in the taxable year immediately preceding the taxable year during which such eligible business relocates. In determining eligible aggregate employment shares, work weeks at premises prior to the later of the date of relocation and the date such premises meet the requirements of subdivision (e) of this section shall not be taken into account.

(2) In the case of a special eligible business, "eligible aggregate employment shares" means: the amount of aggregate employment shares determined in subparagraph (i) of this paragraph, provided, however, such amount shall not exceed the lowest of the amounts determined in subparagraphs (ii), (iii), (iv) and (v) of this paragraph.

(i) the amount determined in this subparagraph is the number of aggregate employment shares maintained by a special eligible business in eligible premises in the eligible Lower Manhattan area in the taxable year in which such special eligible business claims a credit pursuant to section 22-624 of this chapter less the number of aggregate employment shares maintained by such business in such premises in the taxable year prior to the year of relocation.

(ii) the amount determined in this subparagraph is the amount, if any, by which the number of aggregate employment shares maintained by a special eligible business in the taxable year in the city of New York exceeds the number of New York city base shares.

(iii) the amount determined in this subparagraph is the amount, if any, by which number of aggregate employment shares maintained by a special eligible business in the taxable year in the eligible Lower Manhattan area exceeds the number of Lower Manhattan base shares.

(iv) the amount determined in this subparagraph is the greater of one hundred and twice the number of aggregate employment shares maintained by the special eligible business outside the city of New York in the year prior to the year of relocation.

(v) the amount determined in this subparagraph is:

(A) for the year of relocation, the number of full-time work weeks worked by relocated employees in eligible premises after the date of relocation divided by the number of weeks in such taxable year, plus the number of part-time work weeks worked by such employees in such premises after the date of relocation, divided by twice the number of weeks in the taxable year of relocation;

(B) for taxable years after the taxable year of relocation, the lesser of: (I) the number of relocated employee base shares plus the product of (a) the excess, if any, of the number of aggregate employment shares determined in subparagraph (i) of this paragraph over the number of relocated employee base shares and (b) a fraction, the numerator of which is the number of relocated employee base shares and the denominator of which is the sum of relocated employee base shares and New York city base shares; and

(II) the highest number of eligible aggregate employment shares maintained by the special eligible business in eligible premises during the year of relocation and the five immediately succeeding taxable years.

(j) In the case of an eligible business, "relocate" means to transfer pre-existing business operations to one or more premises which are or will become eligible premises in accordance with subdivision (e) of this section, or to establish new business operations at such premises, provided that an eligible business shall not be deemed to have relocated unless at least one employee, partner or sole proprietor of the eligible business is transferred to such premises from pre-existing business operations conducted outside the city of New York. The date of relocation shall be the later of: (1) the first day on which the individual so transferred commences work at premises that are or will become eligible premises, and (2) the date of completion of sufficient improvements to the eligible premises at which such individual has commenced work, to meet the requirements of subdivision (e) of this section relating to expenditures for improvements. The taxable year of relocation shall be the taxable year in which the date of relocation occurs. For purposes of this chapter, an eligible business may relocate only once but may add or substitute other eligible premises throughout the period during which it is authorized pursuant to subdivision (a) of section 22-624 of this chapter to receive the credit allowed by such section.

(k) "Tax year" and "taxable year" mean, for purposes of this chapter, in the case of taxpayers authorized to receive the credit allowed by section 22-624 of this chapter against the tax imposed by chapter eleven of title eleven of the code, calendar year.

(l) "Special eligible business" means any person subject to a tax imposed under chapter five, or subchapter two or three of chapter six, or chapter eleven, of title eleven of the code, that: (1) has been conducting substantial business operations at one or more business locations outside the city of New York for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (m); (2) maintained employment shares at premises in Manhattan in the city of New York at some time during the period beginning January first, two thousand two, and ending on the date it enters into a lease or a contract to purchase the premises that will qualify as eligible premises pursuant to this section, and (3) on or after June thirtieth, two thousand

five, relocates as defined in subdivision (m) of this section all or part of such business operations.

(m) In the case of a special eligible business "relocate" means to transfer pre-existing business operations and employees from one or more qualifying business locations outside the city of New York to one or more premises which are or will become eligible premises in accordance with subdivision (e) of this section. The date of relocation shall be the later of: (1) the first day on which the first individual so transferred commences work at premises that are or will become eligible premises, and (2) the date of completion of sufficient improvements to the eligible premises at which such individual has commenced work to meet the requirements of subdivision (e) of this section relating to expenditures for improvements. The taxable year of relocation shall be the taxable year in which the date of relocation occurs. For purposes of this chapter, a special eligible business may relocate only once but may add additional eligible premises throughout the period during which it is authorized pursuant to subdivision (a) of section 22-624 of this chapter to receive the credit allowed by such section.

(n) "Relocated Employee" means an employee of a special eligible business who (1) has worked at a qualifying business location of the eligible business outside of the city of New York continuously full-time or part-time for the ten work weeks prior to the date of relocation and continuously from the date of relocation until the date of transfer to eligible premises; (2) is transferred to eligible premises; and (3) continues to work for the eligible business at the eligible premises for at least ten full work weeks after the date of transfer.

(o) "Relocated employee base shares" means the number of full-time work weeks worked by relocated employees in eligible premises during the twelve calendar months after the month of relocation, divided by the number of weeks in such twelve months, plus the number of part time work weeks worked by such employees in such premises divided by twice the number of weeks in such months.

(p) "New York city base shares" means the number of aggregate employment shares maintained by the special eligible business in the city of New York in the year prior to the year of relocation.

(q) "Lower Manhattan base shares" means the number of aggregate employment shares maintained by the special eligible business in the eligible Lower Manhattan area in the year prior to the year of relocation.

(r) "Qualifying business location" means a business location of a special eligible business located outside the city of New York at which such business has been conducting substantial business operations for the twenty-four months immediately preceding the year of relocation.

HISTORICAL NOTE

Section added chap 143/2004 § 40, eff. July 6, 2004 and deemed to have

been in full force and effect on and after July 1, 2003.

Subd. (e) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subd. (f) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subd. (g) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subd. (h) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subd. (i) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subd. (j) amended chap 2/2005 § E9, eff. Aug. 30, 2005.

Subds. (l)-(r) added chap 2/2005 § E10, eff. Aug. 30, 2005.

FOOTNOTES

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[Footnote 27]: * Chapter 6-C added chap 143/2004 § 40, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

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NYC Administrative Code 22-624

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6-C LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE PROGRAM*27

§ 22-624 Authorization to provide relocation and employment assistance credits in Lower Manhattan.

(a) An eligible business that relocates as defined in subdivision (j) of section 22-623 of this chapter or a special eligible business that relocates as defined in subdivision (m) of section 22-623 of this chapter shall be allowed to receive a credit against a tax imposed by chapter five, or subchapter two or three of chapter six, or chapter eleven, of title eleven of the code, as described in subdivision (1) of section 11-503, subdivision nineteen of section 11-604, section 11-643.9 or section 11-1105.3 of the code.

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business or special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter and of title eleven of the code unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section 22-623 of this chapter is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section 22-623, and two hundred fifty employment shares. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand thirteen unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section 22-623 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

(c) The mayor or an agency or agencies designated by the mayor shall be authorized to promulgate rules and regulations to administer and assure compliance with the provisions of this chapter, including but not limited to rules and regulations to provide for alternative methods to measure employment shares in instances where an eligible business is not required by law to maintain weekly records of full-time work weeks and part-time work weeks of employees, partners or sole proprietors as defined in subdivision (g) of section 22-623 of this chapter.

(d) An eligible business or special eligible business other than a utility company subject to the supervision of the department of public service shall not be authorized to receive a credit against the gross receipts tax imposed under chapter eleven of title eleven of the code unless such eligible business or special eligible business elects to take the credit authorized by this section against the tax imposed by such chapter on its application filed with the mayor or the agency designated by such mayor pursuant to subdivision (b) of this section. The election authorized by this subdivision may not be withdrawn after the issuance of such certification of eligibility. No taxpayer that has previously received a certification of eligibility to receive such credit against any tax imposed by chapter five or subchapter two or three of chapter six of title eleven of the code may make the election authorized by this subdivision. No taxpayer that makes the election provided in this subdivision shall be authorized to take such credit against any tax imposed by chapter five or subchapter two or three of chapter six of title eleven of the code.

HISTORICAL NOTE

Section added chap 143/2004 § 40, eff. July 6, 2004 and deemed to have

been in full force and effect on and after July 1, 2003.

Subd. (a) amended chap 2/2005 § E11, eff. Aug. 30, 2005.

Subd. (b) amended chap 131/2008 § 4, eff. July 1, 2008.

Subd. (b) amended chap 2/2005 § E11, eff. Aug. 30, 2005.

Subd. (d) amended chap 2/2005 § E12, eff. Aug. 30, 2005.

FOOTNOTES

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[Footnote 27]: * Chapter 6-C added chap 143/2004 § 40, eff. July 6, 2004 and deemed to have been in full force and effect on and after July 1, 2003.

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Title 22 Economic Affairs

CHAPTER 6-D INDUSTRIAL BUSINESS ZONES*29

§ 22-625 Industrial business zone boundary commission.

(a) The industrial business zone boundary commission shall consist of the commissioner of small business services, the director of city planning, the commissioner of buildings, the commissioner of finance, the commissioner of housing preservation and development, the commissioner of citywide administrative services, the president of the economic development corporation, a member of the community associated with industrial and manufacturing activities who shall be appointed by the mayor and serve at the mayor's pleasure, and the five borough presidents. The commissioner of small business services shall serve as chairperson of the commission. Each member of the commission, except the member of the community associated with industrial and manufacturing activities, shall have the power to designate an alternate to represent him or her at commission meetings and exercise all the rights and powers of such member, including the right to vote, provided that such designation is made in writing to the chairperson of the commission. A borough president shall be entitled to vote only on the designation of an industrial boundary zone, an amendment to the boundaries of such a zone, or the repeal of such a zone where all or part of the proposed zone or existing zone is within his or her borough. Commission members shall serve without compensation. A majority of members of such commission entitled to vote on a matter shall constitute a quorum for such issue. Decisions shall be made by majority vote of those present and entitled to vote on a matter.

(b) The mission of the industrial business zone boundary commission shall be the preservation of industrial and manufacturing activities and related employment within the city of New York.

HISTORICAL NOTE

Section added chap 635/2005 § 5, eff. Aug. 30, 2005.

FOOTNOTES

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[Footnote 29]: * Chapter 6-D added chap 635/2005 § 5, eff. Aug. 30, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-626

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 6-D INDUSTRIAL BUSINESS ZONES*29

§ 22-626 Industrial business zones.

(a) The industrial business zone boundary commission shall publish notice at least once in the City Record or a newspaper of general circulation in the city setting forth:

(1) the boundaries of one or more industrial business zones that the commission proposes to be designated, amended or repealed; and

(2) the date, which shall not be earlier than five nor later than fifteen days following the publication of such notice, on which the commission will hold a public hearing to hear all persons interested in the proposed designation, amendment or repeal of such zone or zones.

(b) If after such public hearing, the commission designates or repeals one or more industrial business zones or amends the boundaries of one or more such zones, it shall notify the local legislative body of such designation, repeal or amendment not later than thirty days after such designation, repeal or amendment.

(c) The designation or repeal of an industrial business zone or the amendment of the boundaries of one or more such zones shall become effective upon (1) the vote of the commission approving such designation, repeal or amendment or (2) any other date provided for by the commission when it approves such designation, repeal or amendment.

(d) (1) The commission may designate an area to be an industrial business zone if it determines that the market conditions in such zone are such that the availability of an industrial business zone tax credit is required in order to

encourage industrial and manufacturing activities in such zone.

(2) The commission may repeal an existing industrial business zone if it determines that the market conditions in such zone are such that the availability of an industrial business zone tax credit is no longer required in order to encourage industrial and manufacturing activities in such zone.

(3) The commission may amend in whole or in part the boundaries of an existing industrial business zone if it determines: (A) for any new area or areas to be included within the zone, that the market conditions in such area or areas are such that the availability of an industrial business zone tax credit is required in order to encourage industrial and manufacturing activities in such area or areas; and (B) for any area or areas to be eliminated from such zone, that the market conditions in such area or areas are such that the availability of an industrial business zone tax credit is no longer required in order to encourage industrial and manufacturing activities in such area or areas.

(4) In making any of the determinations set forth in paragraphs one, two or three of this subdivision, the commission shall consider, among other factors it determines are appropriate for consideration, existing land uses, the industrial and manufacturing character of the relevant area, the relevant area's potential development for industrial and manufacturing activities, whether there is any as-of-right zoning for new residential development within such area, vehicular traffic patterns, and existing or proposed empire zone boundaries.

(5) Any land to be included in an industrial business zone shall be designated as M-1, M-2, or M-3 pursuant to the zoning resolution of the city of New York in effect at the time of designation.

(6) For the purposes of this subdivision, the term "industrial business zone tax credit" means an industrial business zone tax credit, as provided in subdivision (n) of section 11-503 or subdivision seventeen-b of section 11-604 of this code.

HISTORICAL NOTE

Section added chap 635/2005 § 5, eff. Aug. 30, 2005.

FOOTNOTES

29

[Footnote 29]: * Chapter 6-D added chap 635/2005 § 5, eff. Aug. 30, 2005.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-701

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-701 Authorization for the establishment of empire zones.

Pursuant to the provisions of article 18-B of the general municipal law, empire zones shall be established as hereinafter provided.

HISTORICAL NOTE

Section amended "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section added L.L. 8/1987 § 1.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-702

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-702 Port Morris zone.

a. a. There is hereby established in the borough of the Bronx an empire zone as follows:

BEGINNING at the point where the center line of the prolongation of East 157th Street meets the U.S. pierhead and bulkhead line located on the Bronx County side of the Harlem River; thence southerly and easterly along the said U.S. pierhead and bulkhead line to a point where said pierhead and bulkhead lines divide; thence northerly along the U.S. pierhead line of the East River to the point where it meets the easterly terminus of East 149th Street; thence northwesterly along the center line of East 149th Street to the point where it meets the center line of Southern Boulevard; thence southerly along the center line of Southern Boulevard to the point where it meets the center line of East 145th Street; thence westerly along the center line of East 145th Street to the point where it meets the center line of the block bounded on the west by Jackson Avenue and on the east by Concord Street; thence southerly along the center line of such block to the point where it meets the center line of East 144th Street, said line being the district boundary line between the R7-1 and M1-2 zoning districts as it appears on Sheet 6c of the Zoning Map of the New York City Planning Commission as amended effective February eighth, nineteen hundred ninety (A-1571), as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of East 144th Street to the point where it meets the center line of Jackson Avenue, said line being the district boundary line between the R7-1 and M1-2 zoning districts as it appears on Sheet 6c as described aforesaid; thence southerly along the center line of Jackson Avenue to the point where it meets the center line of St. Mary's Street; thence westerly along the center line of St. Mary's Street to the point where it meets the center line of Cypress Avenue, said line being the district boundary lines between the M1-2 and R7-1 zoning districts and the R6 and R7-1 zoning districts as they appear on Sheet 6c as described aforesaid; thence southerly along the center line of Cypress Avenue to the point where it meets the center line

of East 139th Street; thence westerly along the center line of East 139th Street to the point where it meets the center line of Morris Avenue; thence northerly along the center line of Morris Avenue to the point where it meets the southerly street line of East 148th Street; thence easterly along the southerly street line of East 148th Street to the point where it meets the westerly street line of Brook Avenue; thence northerly along the westerly street line of Brook Avenue to the point where it meets the center line of East 159th Street; thence easterly along the center line of East 159th Street to the point where it meets the center line of St. Ann's Avenue/Third Avenue, said line being the district boundary line between the R7-2 and R6 zoning districts as it appears on Sheet 6c as described aforesaid; thence northerly along the center line of St. Ann's Avenue/Third Avenue to the point where it meets the westerly street line of Boston Road; thence northeasterly along the westerly street line of Boston Road to the point where it meets the northerly street line of East 166th Street; thence northwesterly and then westerly along the northerly street line of East 166th Street to the point where it meets the easterly street line of Third Avenue; thence northerly along the easterly street line of Third Avenue to the point where it meets the southerly street line of East 168th Street; thence northwesterly along the southerly street line of East 168th Street to the point where it meets the westerly street line of Webster Avenue; thence southerly along the westerly street line of Webster Avenue to the point where it meets the westerly street line of Brook Avenue; thence southeasterly along the westerly street line of Brook Avenue to the point where it meets the northerly street line of East 162nd Street; thence westerly along the northerly street line of East 162nd Street to the point where it meets the westerly street line of Grant Avenue; thence northerly along the westerly street line of Grant Avenue to the point where it meets the southerly street line of East 163rd Street; thence westerly along the southerly street line of East 163rd Street to the point where it meets the center line of Concourse Village West/Sheridan Avenue; thence southerly along the center line of Concourse Village West/Sheridan Avenue to a point 541 feet to the south of the southerly street line of East 161st Street, said line being the district boundary line between the R7-1 and R8 zoning districts, the C4-6 and C8-3 zoning districts and the R8 and C8-3 zoning districts as they appear on Sheet 3b of the Zoning Map of the New York City Planning Commission as amended effective March sixth, nineteen hundred ninety-two (A-1632) and Sheet 6a of the Zoning Map of the New York City Planning Commission as amended effective January twenty-first, nineteen hundred ninety-three (A-1648), as contained in the Zoning Resolution of the City of New York; thence easterly along a line 541 feet to the south of East 161st Street and running parallel thereto to the point where it meets the center line of Concourse Village East/Morris Avenue, said line being the district boundary line between the C8-3 and the R8 zoning districts as it appears on Sheet 6a as described aforesaid; thence northerly along the center line of Concourse Village East/Morris Avenue to the point where it meets the center line of East 161st Street, said line being the district boundary line between the C8-3 and R8 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of East 161st Street to the point where it meets the westerly street line of Third Avenue; thence southerly along the westerly street line of Third Avenue to the point where it meets the northerly street line of East 152nd Street; thence westerly along the northerly street line of East 152nd Street to the point where it meets the westerly street line of Melrose Avenue; thence southerly along the westerly street line of Melrose Avenue to the point where it meets the northerly street line of East 149th Street; thence westerly along the northerly street line of East 149th Street to the point where it meets the southeastern prolongation of the northerly street line of East 151st Street; thence northwesterly along the southeastern prolongation of the northerly street line of East 151st Street and the northerly street line of East 151st Street to the point where it meets the easterly street line of Gerard Avenue; thence northerly along the easterly street line of Gerard Avenue to the point where it meets the northerly street line of East 162nd Street; thence northwesterly along the northerly street line of East 162nd Street to the point where it meets the center line of River Avenue; thence southerly along the center line of River Avenue to the point where it meets the center line of East 161st Street, said line being the district boundary line between the R7-1 and R8 zoning districts as it appears on Sheet 3b as described aforesaid; thence westerly along the center line of East 161st Street to the point where it meets the center line of Ruppert Place, said line being the district boundary line between the C8-3 and R7-1 zoning districts as it appears on Sheet 3b as described aforesaid; thence southwesterly along the center line of Ruppert Place to the point where it meets the center line of East 157th Street, said line being the district boundary line between the R7-1 and C8-3 zoning districts as it appears on Sheet 3b and Sheet 6a as described aforesaid; thence westerly along the center line of East 157th Street and its prolongation to the point and place of beginning.

There is one subzone: BEGINNING at the point of intersection of the easterly street line of Park Avenue and the

southerly street line of East 174th Street; thence southerly along the easterly street line of Park Avenue to the point where it meets the northerly street line of Claremont Parkway; thence easterly along the northerly street line of Claremont Parkway to the point where it meets the westerly street line of Fulton Avenue; thence northerly along the westerly street line of Fulton Avenue to the point where it meets the southerly street line of the Cross Bronx Expressway; thence westerly along the southerly street line of the Cross Bronx Expressway to the point where it meets the easterly street line of Washington Avenue; thence southerly along the easterly street line of Washington Avenue to the point where it meets the southerly street line of East 174th Street; thence westerly along the southerly street line of East 174th Street to the point and place of beginning.

b. The chairperson of the economic development corporation shall be the zone certification officer of the Port Morris empire zone.

c. The administrative board of the Port Morris empire zone shall be comprised of:

1. the commissioner of the department of small business services;

2. the president of the economic development corporation;

3. the commissioner of social services;

4. the commissioner of the department of housing preservation and development;

5. the member or members of the city council whose districts include the Port Morris zone;

6. a member appointed by the president of the borough of the Bronx. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the borough president;

7. a representative of the local chamber of commerce or like group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor; and

8. a representative of a local community group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor.

d. The commissioner of the department of small business services shall be the chairperson of the board. The administrative board shall choose at its first meeting one of its members who shall be treasurer and may appoint a secretary.

e. A majority of the members shall constitute a quorum of such board.

f. Whenever any act is authorized to be done or any determination or decision made by the board, the act, determination or decisions of the majority of the board shall be held to be the act, determination or decision of the board.

g. Members of the board shall serve as such without compensation but shall be reimbursed for actual and necessary out-of-pocket expenses in connection with attendance at regularly scheduled meetings of the board.

h. The board shall meet at least four times each year.

i. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous area described by block and lot in subdivision j of this section, the boundaries of the zone set forth in subdivision a of this section shall be superseded by subdivision j of this section.

j. There is hereby established in the borough of the Bronx an empire zone consisting of the following blocks and lots:

Block: 2260 Lots: 1; 4; 10; 17; 18; 19; 34; 38; 62; 100; 140; 180; 192; 193.

Block: 2261 Lots: 3; 5; 9; 15; 22; 23; 27; 30; 32; 37; 38; 43; 45; 47; 48; 49; 50; 51; 55; 62.

Block: 2277 Lots: 1; 2; 5; 10; 50; 51; 70; 78; 82; 92; 94.

Block: 2278 Lots: 1; 4; 5; 9; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 53; 56; 59; 61; 64; 70; 75; 77.

Block: 2293 Lots: 1; 4; 7; 8; 21; 23.

Block: 2294 Lots: 1; 2.

Block: 2295 Lots: 49; 51; 67; 71.

Block: 2296 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 18; 20; 26; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 102.

Block: 2308 Lots: 1; 5; 15; 18.

Block: 2309 Lots: 1; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 33.

Block: 2316 Lots: 1; 35.

Block: 2317 Lots: 1; 5; 6; 8; 9; 10; 13; 15; 17; 19; 22; 23; 25; 33; 35; 41; 43; 51; 52; 53.

Block: 2318 Lots: 5; 7; 9; 15; 16; 18; 19; 22; 75; 100.

Block: 2319 Lots: 2; 37; 55; 62; 98; 99; 100; 108; 109; 112; 120; 200.

Block: 2320 Lots: 5; 6; 7; 8; 9; 10; 11; 32; 33; 37; 41; 42; 43; 45; 46; 47; 50; 51; 53; 59; 66; 72; 73; 74; 77; 79; 88; 164; 185.

Block: 2322 Lots: 1; 5; 15; 28; 67; 71; 81; 101; 104; 111; 129.

Block: 2323 Lots: 5; 13; 18; 28; 43; 60; 112; 114; 130.

Block: 2327 Lots: 38; 39; 48; 51; 52; 54; 61; 64; 72.

Block: 2328 Lots: 24; 25; 32; 33; 35; 37; 39; 42; 43.

Block: 2330 Lots: 1; 5; 7; 10; 11; 12; 14; 15; 16; 17; 18; 19; 20; 22; 24; 26; 30; 34; 37; 38; 39; 44; 45; 51; 53; 57; 59; 61; 62; 66; 69; 70; 73; 77.

Block: 2331 Lots: 1; 3; 4; 5; 6; 7; 9; 10; 11; 12; 13; 15; 16; 18; 19; 21; 22; 28; 29; 30; 33; 34; 36; 39; 41; 43; 48; 49; 50; 51; 52; 54; 55; 56; 57; 63; 64; 66; 68; 69; 70; 71; 72; 74.

Block: 2333 Lots: 1; 6; 10; 12; 26; 33; 50.

Block: 2334 Lots: 43; 45.

Block: 2338 Lots: 3.

Block: 2340 Lots: 1; 3; 8; 11; 14; 16; 20; 28; 40; 42; 56; 58; 63; 72; 105; 107; 108; 110; 113; 115; 116; 119; 131; 133; 142; 145; 186; 195; 204; 208; 209; 213; 215; 218; 219; 220; 221; 372.

Block: 2341 Lots: 1; 6; 10; 23; 28; 31; 34; 37; 40; 42; 54; 55; 58; 60; 150.

Block: 2342 Lots: 1; 7; 13.

Block: 2343 Lots: 1; 4; 6; 9; 10; 12; 14; 32.

Block: 2344 Lots: 1; 11; 17; 27; 52; 60; 75; 83; 96; 110; 112.

Block: 2345 Lots: 1; 5; 10; 12; 14; 18; 22; 26; 49.

Block: 2346 Lots: 1; 18; 29; 43.

Block: 2347 Lots: 1; 4; 5; 6; 7; 8; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 23; 24; 31; 33; 34; 35; 37; 38.

Block: 2348 Lots: 1; 4; 5; 13; 14; 15; 28; 29; 30; 31; 32; 33; 34; 35; 36.

Block: 2349 Lots: 3; 15; 20; 38; 46; 47; 80; 90; 100; 103; 107; 112; 146.

Block: 2350 Lots: 1; 5; 11; 16; 24; 29; 34; 39; 63.

Block: 2351 Lots: 1; 3; 12; 20; 22; 25; 35.

Block: 2352 Lots: 3; 6; 15; 28; 40; 41; 42; 43; 45; 46; 47; 48; 49; 50; 51; 52; 53; 147.

Block: 2353 Lots: 1; 16; 20; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54.

Block: 2354 Lots: 1; 20.

Block: 2362 Lots: 1; 7; 10; 11; 12; 13; 15; 21; 25; 26; 38; 39; 40; 41; 42; 43; 44; 48; 49; 71; 72.

Block: 2363 Lots: 4; 7; 12; 14; 16; 24.

Block: 2364 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 13; 15; 17; 19; 21; 22; 23; 24; 25; 45; 49; 51; 52; 55; 56; 58; 60; 61; 70.

Block: 2365 Lots: 1; 9; 12; 14; 15; 17; 20; 22; 23; 24; 25; 26; 29.

Block: 2366 Lots: 1.

Block: 2367 Lots: 1; 3; 6; 7; 8; 10; 11; 12; 14; 15; 16; 17; 18; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 50; 55; 60.

Block: 2368 Lots: 2; 4; 5; 6; 7; 8; 9; 12; 14; 15; 17; 19; 21; 23; 27; 28; 35; 37; 38; 48; 50; 51; 55.

Block: 2369 Lots: 1; 2; 3; 4; 5; 6; 8; 9; 10; 12; 13; 14; 16; 18; 20; 21; 23; 24; 25; 26; 27; 28; 29; 30; 32; 34; 36; 37; 38; 39; 40; 41; 45; 47; 48; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 90; 100; 153.

Block: 2370 Lots: 1; 2; 3; 4; 5; 6; 7; 8, 9; 13; 16; 17; 23; 24; 25; 26; 27; 29; 30; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 43; 44; 45; 47; 49; 50; 52; 143.

Block: 2371 Lots: 1; 4; 5; 6; 9; 10; 11; 12; 13; 15; 17; 19; 22; 23; 24; 27; 29; 31; 55; 56; 57; 58; 61; 64; 65; 70.

Block: 2372 Lots: 1; 7; 9; 11; 13; 15; 18; 20.

Block: 2373 Lots: 1; 3; 4, 5; 6; 7; 9; 10; 12; 14; 21; 23; 24, 25; 27; 37; 38; 43; 48; 50; 148.

Block: 2374 Lots: 1; 4; 9; 10; 15; 17; 18; 20; 21; 41, 45; 48; 51; 56; 59; 60; 85; 86; 90; 97.

Block: 2375 Lots: 18; 19; 21; 23; 24; 26; 27; 42; 43; 48.

Block: 2376 Lots: 23; 25; 27; 47; 49; 51; 53; 54; 165; 167; 169; 171; 173; 175.

Block: 2377 Lots: 20; 41; 42; 49; 54; 55; 56; 57; 60; 144; 146; 148; 150; 152; 154; 160.

Block: 2384 Lots: 25; 28; 32; 33; 34; 61.

Block: 2385 Lots: 1; 3; 7; 11; 15; 17; 18; 23; 30; 33; 34; 35; 36; 38; 44; 45; 49; 50; 51; 53; 55; 59; 65.

Block: 2386 Lots: 1; 2; 5; 7; 8; 11; 17; 20; 21; 22; 24; 29; 30; 34; 35; 37; 40; 43; 56; 57; 58; 59; 65; 66; 67; 74; 136; 144; 164.

Block: 2387 Lots: 1; 10; 25; 29; 31; 32; 34; 35; 36; 37; 38; 40; 41; 44; 49; 51; 55.

Block: 2388 Lots: 1; 2; 3; 5; 8; 10; 11; 12; 13; 16; 17; 18; 19; 20; 22; 25; 28; 29; 30; 34; 37; 45; 47; 48; 49; 50; 51; 52; 53; 54; 57; 58; 59; 61; 63; 64; 65; 67; 68; 69; 71; 74; 85; 87.

Block: 2389 Lots: 1; 7; 11; 13; 14; 16; 20; 26; 27; 28; 31; 32; 33; 34; 38; 39; 40; 43; 45; 47; 48; 49; 50; 51; 54; 55; 56; 57; 65.

Block: 2391 Lots: 1; 45; 49; 52; 62; 63.

Block: 2392 Lots: 1; 6; 16; 20; 25; 35; 38; 40; 41; 42; 46; 51; 56; 66; 71.

Block: 2393 Lots: 1; 5; 6; 10; 14; 16; 20; 21; 22; 26.

Block: 2394 Lots: 1; 5; 17; 23; 24; 28; 29; 30; 34.

Block: 2425 Lots: 20.

Block: 2426 Lots: 17; 21; 25; 64; 75; 82.

Block: 2443 Lots: 1; 4; 300; 400.

Block: 2543 Lots: 1; 30; 40; 50; 60.

Block: 2546 Lots: 1; 11; 15; 19; 27; 33; 52; 64; 67; 74; 82; 90; 94; 95; 96; 97; 98; 99; 100; 101; 135; 137; 138; 140; 141.

Block: 2552 Lots: 40; 45; 145; 146; 147; 148; 149; 150; 151; 152; 153.

Block: 2553 Lots: 36; 46; 47; 48; 49; 51; 52.

Block: 2554 Lots: 1; 2; 3; 26; 44; 49; 54; 60.

Block: 2557 Lots: 61; 62; 80.

Block: 2561 Lots: 1; 13; 15; 17; 18; 19; 21; 25; 35; 36; 37; 39; 42; 46; 47; 50; 56; 58; 60; 78; 80; 81; 82; 83; 84;

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Block: 2562 Lots: 1; 17; 18; 19; 20; 21; 23; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 40; 41; 49; 56; 58; 60; 61; 62; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 80; 81; 82; 83; 84; 85; 86; 88; 89; 90; 91; 92; 93; 94; 95.

Block: 2563 Lots: 12; 15; 17; 21; 26; 28; 31; 40; 56.

Block: 2564 Lots: 1; 5; 10; 38; 40; 45; 47; 51; 58; 61; 63; 72.

Block: 2565 Lots: 1; 8; 25; 28; 47; 49; 50; 51; 52; 53; 54; 55; 56; 60; 65; 66; 68; 69; 70; 71; 72; 74; 75; 76; 78; 80.

Block: 2566 Lots: 5; 6; 10; 14; 18; 20; 22; 25; 26; 30; 32; 36; 37; 38; 41; 55; 60; 61; 62; 66; 68; 70; 71.

Block: 2567 Lots: 6; 7; 8; 9; 10; 13; 26; 30.

Block: 2568 Lots: 1; 2; 3; 4; 6; 8; 9; 12; 20; 39; 40; 41; 45; 46; 47; 48; 49; 51; 54; 57; 60; 63; 68; 73; 76; 145; 170; 180; 181.

Block: 2569 Lots: 1; 5; 20; 25; 29; 32.

Block: 2570 Lots: 1; 4; 6; 10; 16; 18; 35; 38; 39; 42; 45.

Block: 2571 Lots: 1; 14; 23; 24; 25; 26; 28; 29; 30; 31; 32; 132.

Block: 2572 Lots: 1; 6; 56; 57; 59; 60; 61; 63; 64; 65; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 162.

Block: 2573 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 44; 49; 56; 71; 78; 81; 87; 91; 101.

Block: 2574 Lots: 1; 40; 46; 53; 56; 64; 70; 74; 77; 78; 79; 82.

Block: 2575 Lots: 28; 31; 34; 41; 50; 65.

Block: 2576 Lots: 1; 5; 6; 7; 17; 21; 23; 25.

Block: 2577 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 20; 22; 24.

Block: 2578 Lots: 1; 18; 21.

Block: 2583 Lots: 2; 30; 50; 62; 365; 368; 500; 650.

Block: 2584 Lots: 1; 17; 24; 48.

Block: 2585 Lots: 1; 18; 19; 26; 62.

Block: 2586 Lots: 1; 12; 14; 19; 20; 26; 65.

Block: 2587 Lots: 1; 11; 21; 22; 30; 40; 43; 46; 48; 50; 69; 72.

Block: 2588 Lots: 1; 8; 14; 17; 22; 33; 73.

Block: 2589 Lots: 1; 15; 16; 25; 31.

Block: 2590 Lots: 1; 16; 20; 36; 44; 51; 84; 89; 98; 100; 102.

Block: 2591 Lots: 17; 23; 30; 37; 38; 44; 46; 85; 88.

Block: 2592 Lots: 1; 13; 17; 19; 21; 28; 34; 35; 69; 70; 72.

Block: 2593 Lots: 1; 30.

Block: 2594 Lots: 1; 5; 30; 35; 50.

Block: 2595 Lots: 1; 33; 35; 39; 107; 500.

Block: 2596 Lots: 1; 10; 20; 40; 60.

Block: 2597 Lots: 1; 41; 70; 105.

Block: 2598 Lots: 1; 46; 62; 66; 70; 74; 77; 78; 79; 80; 82; 83; 86; 98.

Block: 2599 Lots: 1; 2; 5; 61; 62; 69; 87; 89; 90; 92; 100; 101; 107; 110; 128; 139; 146; 165; 175; 200; 269; 295; 400.

Block: 2600 Lots: 1; 25; 28; 30; 43; 47; 49; 50; 51; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 89; 96; 99; 100; 101; 103; 122; 125; 131; 142; 148; 150; 153; 159; 166; 167; 168; 169; 170; 186; 187; 191; 193; 194; 195; 196; 197; 198; 199; 200; 202; 206; 208; 213; 220; 222; 250.

Block: 2601 Lots: 1; 7; 12; 20; 24; 35; 48; 50; 54; 57; 61; 65; 67.

Block: 2607 Lots: 2; 6; 7; 8; 9; 11; 12; 13; 14; 17; 23; 26; 29; 32; 34; 37; 38; 43; 44; 45; 46; 47; 67; 68; 72; 78; 81; 84; 85; 86; 87; 91; 93; 95; 96; 97; 100.

Block: 2608 Lots: 1; 4; 9; 10; 11; 12; 19.

Block: 2888 Lots: 39; 43; 50; 58.

Block: 2889 Lots: 29; 33; 35; 38; 40; 41; 43; 44; 61; 88; 92; 93.

Block: 2890 Lots: 20; 24; 56; 60; 66; 71; 73.

Block: 2892 Lots: 46; 49; 54; 59; 62; 63; 65; 73; 77; 85; 125.

Block: 2897 Lots: 24; 29; 39; 42; 44; 47; 48; 49; 51; 52; 53; 54; 55; 56; 57; 58; 61; 62; 124; 140; 142; 143; 182; 192.

Block: 2898 Lots: 1; 10; 11; 13; 14; 16; 22; 24; 29; 31; 50; 51; 53; 54; 55; 58; 60; 85.

Block: 2899 Lots: 1; 29; 34; 35; 37; 42; 44; 46; 48; 49; 50; 51; 53; 58; 70.

Block: 2900 Lots: 1; 4; 7; 10; 12; 15; 18; 20; 27; 28; 33; 39; 46; 48; 51; 77; 83; 90; 107.

Block: 2904 Lots: 1; 10; 12; 16; 18; 20; 22; 23; 24; 25; 27; 29; 30; 31; 32; 34; 36; 39; 41; 42.

Block: 2905 Lots: 1; 3; 6; 8; 10; 13; 16; 18; 20; 24; 26; 28; 30; 38; 41; 44; 47; 49.

Block: 2906 Lots: 51; 56; 57; 59; 63; 67; 68; 76; 78; 83; 89; 93; 97; 101; 102; 103; 104.

Block: 2907 Lots: 1; 2; 6; 9; 10; 22; 23; 24; 25; 26; 27; 28; 29; 31; 52; 56; 57; 58; 59; 61; 63; 68; 75; 76.

Block: 2908 Lots: 1; 5; 8; 11; 13; 15; 17; 20; 22; 47.

Block: 2909 Lots: 1; 40.

Block: 2910 Lots: 1.

Block: 2911 Lots: 1; 30.

Block: 2912 Lots: 1; 2; 24; 25; 26; 113; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 129; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 144; 145; 146; 147; 148; 149; 150; 151; 152; 153; 154; 155; 156; 157; 158; 159; 160; 161.

Block: 2913 Lots: 1; 42; 43.

Block: 2914 Lots: 1.

Block: 2915 Lots: 1.

Block: 2916 Lots: 2.

Block: 2919 Lots: 1; 5; 39; 42; 43; 44; 45; 50.

Block: 2920 Lots: 2.

Block: 2921 Lots: 1.

Block: 2922 Lots: 2.

Block: 2929 Lots: 23; 50; 58; 65; 66; 67; 68; 74; 78; 82; 169; 170; 171; 172.

Block: 2930 Lots: 1; 12; 26; 28; 29; 30; 39.

HISTORICAL NOTE

Section added L.L. 8/1987 § 1, effective 3/5/1987.

Subd. a amended L.L. 55/1995 § 1, eff. June 27, 1995.

Subd. a repealed and added L.L. 57/1988 § 1.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. b amended L.L. 52/2003 § 9, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. b "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c amended L.L. 52/2003 § 9, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. d amended L.L. 52/2003 § 9, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. i added L.L. 45/2006 § 2, eff. Nov. 9, 2006. [See Note 1]

Subd. j added L.L. 45/2006 § 2, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

Section 1. (a) By Local Law No. 8 for the year 1987, adopted on March 5, 1987, the council of the city of New York authorized an application for the designation of the Port Morris economic development zone relative to certain land within the borough of the Bronx.

(b) The city of New York has received economic development zone approval from New York state.

(c) By Local Law No. 57 for the year 1988, adopted on August 19, 1988, the boundaries of the Port Morris economic development zone were revised.

(d) By Local Law No. 55 for the year 1995, adopted on June 27, 1995, the boundaries of the Port Morris economic development zone were revised a second time.

(e) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Port Morris economic development zone is now known as the Port Morris empire zone.

(f) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Port Morris empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(g) The Port Morris empire zone has been configured into one distinct and separate contiguous area. Such area is described by block and lot in subdivision j of section 22-702 of the administrative code of the city of New York, as added by section two of this local law.

(h) Accordingly, the city of New York is authorized to submit an application for redesignation of such area within the borough of the Bronx as the Port Morris empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(i) Pursuant to article 18-B of the General Municipal Law, the Port Morris Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the Port Morris Empire Zone

Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-703

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-703 East Harlem zone.

a.* There25 is hereby established in the borough of Manhattan an empire zone as follows:

BEGINNING at the point of intersection of the center line of the southbound roadway of Park Avenue and the center line of East 132nd Street; thence westerly along the center line of East 132nd Street to a point 100 feet to the west of the southbound roadway of Park Avenue as measured from its westerly street line; thence southerly along a line 100 feet to the west of the southbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 128th Street, said line being the district boundary line between the C8-3 and R7-2 zoning districts as it appears on Sheet 6a of the Zoning Map of the New York City Planning Commission as amended effective December twentieth, nineteen hundred eighty-four (A-1415), as contained in the Zoning Resolution of the City of New York; thence easterly along the center line of East 128th Street to the point where it meets the center line of the southbound roadway of Park Avenue; thence

southerly along the center line of the southbound roadway of Park Avenue to the point where it meets the center line of East 127th Street; thence westerly along the center line of East 127th Street to a point 100 feet to the west of the southbound roadway of Park Avenue as measured from its westerly street line; thence southerly along a line 100 feet to the west of the southbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 126th Street, said line being the district boundary line between the C8-3 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence westerly along the center line of East 126th Street to the point where it meets the center line of Madison Avenue; thence southerly along the center line of Madison Avenue to the point where it meets the center line of the block bounded on the north by East 125th Street and on the south by East 124th Street; thence easterly along the center line of such block to a

point 100 feet to the west of the southbound roadway of Park Avenue as measured from its westerly street line, said line being the district boundary line between the C4-4 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence southerly along a line 100 feet to the west of the southbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 116th Street; thence easterly along the center line of East 116th Street (also designated Luis Munoz Marin Boulevard) to a point 100 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 100 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 124th Street; thence easterly along the center line of East 124th Street to a point 100 feet to the west of Third Avenue as measured from its westerly street line; thence southerly

along a line 100 feet to the west of Third Avenue and running parallel thereto to the point where it meets the center line of East 123rd Street, said line being the district boundary line between the R7-2 and C4-4 zoning districts as it appears on Sheet 6b of the Zoning Map of the New York City Planning Commission as amended effective September nineteenth, nineteen hundred eighty-five (A-1430), as clarified by certain numbered dimensions which were added on September twenty-fifth, nineteen hundred eighty-six as contained in the Zoning Resolution of the City of New York; thence easterly along the center line of East 123rd Street to a point 100 feet to the east of Third Avenue as measured from its easterly street line; thence northerly along a line 100 feet to the east of Third Avenue and running parallel thereto to the point where it meets the center line of East 124th Street, said line being the district boundary line between the C4-4 and R7-2 zoning districts as it appears on Sheet

6b as described aforesaid; thence easterly along the center line of East 124th Street to the point where it meets the center line of Second Avenue; thence northerly along the center line of Second Avenue to the point where it meets the center line of East 125th Street; thence easterly along the center line of East 125th Street (also designated Dr. Martin Luther King Jr. Boulevard) to the point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 127th Street; thence westerly along the center line of East 127th Street to the point where it meets the center line of Second Avenue; thence northerly along the center line of Second Avenue to the point where it meets the center line of East 128th Street; thence westerly along the center line of East 128th Street to a point 105 feet to the east of Third Avenue as measured from its easterly street line; thence southerly along a line 105 feet to the east of Third

Avenue and running parallel thereto to the point where it meets the center line of East 127th Street, said line being the district boundary line between the M3-1 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of East 127th Street to a point 250 feet to the west of Second Avenue as measured from its westerly street line; thence southerly along a line 250 feet to the west of Second Avenue and running parallel thereto to the point where it meets the center line of the block bounded on the north by East 127th Street and on the south by East 126th Street, said line being the district boundary line between the R7-2 and M1-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence easterly along the center line of such block to the point where it meets the center line of Second Avenue, said line being the district boundary line between the R7-2 and M1-2 zoning districts as it appears on Sheet 6b

as described aforesaid; thence southerly along the center line of Second Avenue to the point where it meets the center line of East 126th Street; thence westerly along the center line of East 126th Street to a point 100 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 100 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of the block bounded by East 128th Street to the north and East 127th Street to the south, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of such block to a point 160 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as

described aforesaid; thence northerly along a line 160 feet to the east of the northbound roadway of Park Avenue

and running parallel thereto to the point where it meets the center line of East 128th Street, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence westerly along the center line of East 128th Street to a point 80 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 80 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 129th Street, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of East 129th Street to a point 122 feet to the east of the northbound roadway of Park Avenue as measured from its

easterly street line; thence northerly along a line 122 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of the block bounded by East 131st Street on the north and East 130th Street on the south, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of such block to a point 80 feet to the west of Lexington Avenue as measured from its westerly street line, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence northerly along a line 80 feet to the west of Lexington Avenue and running parallel thereto to the point where it meets the center line of East 131st Street, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described

aforesaid; thence westerly along the center line of East 131st Street to the point where it meets the center line of the southbound roadway of Park Avenue; thence northerly along the center line of the southbound roadway of Park Avenue to the point and place of beginning.

There are two subzones: (1) BEGINNING at a point on the center line of East 119th Street and located 250 feet to the east of Pleasant Avenue as measured from its easterly street line; thence southerly along a line 250 feet to the east of Pleasant Avenue and running parallel thereto to the point where it meets the center line of East 116th Street, said line being the district boundary line between the M2-2 and R7-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence easterly along the center line of East 116th Street to the point where it meets the U.S. pierhead line as it appears on Sheet 6b as described aforesaid; thence northerly along the U.S. pierhead line to the point where said pierhead line would meet the center line of East 119th Street if such center line were extended to the U.S. pierhead line; thence westerly along the center line of East 119th Street and such extension to the point and place of beginning.

(2) BEGINNING at a point on the center line of East 111th Street and located 100 feet to the east of Second Avenue as measured from its easterly street line; thence southerly along a line 100 feet to the east of Second Avenue and running parallel thereto to the point where it meets the center line of the block bounded on the north by East 110th Street and on the south by East 109th Street, said line being the district boundary line between the M1-4 and R7-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence easterly along the center line of such block to the point where it meets the center line of First Avenue, said line being the district boundary line between the M1-4 and R7-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence northerly along the center line of First Avenue to the point where it meets the center line of East 110th Street; thence easterly along the center line of East 110th Street to the point where it meets the center line of a street named "A New Street"; thence northerly along the center line of "A New Street" to the point where it meets the center line of East 111th Street; thence westerly along the center line of East 111th Street to the point and place of beginning.

b. The chairperson of the economic development corporation shall be the zone certification officer of the East Harlem empire zone.

c. The administrative board of the East Harlem empire zone shall be comprised of:

1. the commissioner of the department of small business services;

2. the president of the economic development corporation;

3. the commissioner of social services;

4. the commissioner of the department of housing preservation and development;

5. the member or members of the city council whose districts include the East Harlem zone;

6. a member appointed by the president of the borough of the Bronx. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the borough president;

7. a representative of the local chamber of commerce or like group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor; and

8. a representative of a local community group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor.

d. The commissioner of the department of small business services shall be the chairperson of the board. The administrative board shall choose at its first meeting one of its members who shall be treasurer and may appoint a secretary.

e. A majority of the members shall constitute a quorum of such board.

f. Whenever any act is authorized to be done or any determination or decision made by the board, the act, determination or decisions of the majority of the board shall be held to be the act, determination or decision of the board.

g. Members of the board shall serve as such without compensation but shall be reimbursed for actual and necessary out-of-pocket expenses in connection with attendance at regularly scheduled meetings of the board.

h. The board shall meet at least four times each year.

i. Upon approval by the commissioner of the New York state department of economic development of the request to revise the boundaries of the East Harlem empire zone, the boundaries of the zone set forth in subdivision a of this section shall be superseded by the boundaries of the zone set forth in subdivision j of this section.

j. There is hereby established in the borough of Manhattan an empire zone as follows:

(1) BEGINNING at the point of intersection of the center line of East 124th Street and the center line of Second Avenue; thence northerly along the center line of Second Avenue to the point where it meets the center line of East 125th Street (also designated Dr. Martin Luther King, Jr. Boulevard); thence easterly along the center line of East 125th Street to the point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 127th Street; thence westerly along the center line of East 127th Street to the point where it meets the center line of Second Avenue; thence northerly along the center line of Second Avenue to the point where it meets the center line of East 128th Street; thence westerly along the center line of East 128th Street to the point where it meets the easterly side of Third Avenue; thence southerly along the easterly street line of Third Avenue to the point where it meets the center line of East 126th Street; thence westerly along the center line of East 126th Street to a point located 100 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 100 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of the block bounded by East 128th Street to the north and East 127th Street to the south, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a of the Zoning Map of the New York City Planning Commission as amended effective December eleventh, two thousand one; thence easterly along the center line of such block to a point located 160 feet to

the east of the northbound roadway of Park Avenue as measured from its easterly street line, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence northerly along a line 160 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 128th Street, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence westerly along the center line of East 128th Street to a point located 80 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 80 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 129th Street, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of East 129th Street to a point located 122 feet to the east of the northbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 122 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of the block bounded by East 131st Street on the north and East 130th Street on the south, said line being the district boundary line between the M1-2 and R7-2 zoning districts as it appears on Sheet 6a as described aforesaid; thence easterly along the center line of such block to the point where it meets the westerly street line of Lexington Avenue; thence northerly along the westerly street line of Lexington Avenue to the point where it meets the center line of East 131st Street, thence westerly along the center line of East 131st Street to the point where it meets the center line of the southbound roadway of Park Avenue; thence northerly along the center line of the southbound roadway of Park Avenue to the point where it meets the center line of East 132nd Street; thence westerly to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the center line of East 126th Street; thence westerly along the southerly side of East 126th Street to the point where it meets the center line of Fifth Avenue; thence southerly to the point where it meets the center line of East 124th Street; thence easterly along the center line of East 124th Street to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the center line of East 120th Street; thence westerly along the center line of East 120th Street to the point where it meets the center line of Fifth Avenue; thence southerly along the center line of Fifth Avenue to the point where it meets the center line of East 115th Street; thence easterly along the center line of East 115th Street to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the southerly side of East 112th Street; thence westerly along the southerly side of East 112th Street to the point where it meets the center line of Fifth Avenue; thence southerly along the center line of Fifth Avenue to the point where it meets the center line of East 102nd Street; thence easterly along the center line of East 102nd Street to the point where it meets the westerly side of Lexington Avenue; thence southerly along the westerly side of Lexington Avenue to the point where it meets the center line of East 96th Street; thence easterly along the center line of East 96th Street to the point where it meets the U.S. pierhead line as it appears on Sheet 6b of the Zoning Map of the New York City Planning Commission as amended effective December eleventh, two thousand one; thence northerly along the U.S. pierhead line to the point where it meets the center line of East 111th Street; thence westerly along the center line of East 111th Street to the point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 114th Street; thence easterly to the U.S. pierhead line as it appears on Sheet 6b as described aforesaid; thence northerly to the point where it meets the center line of East 121st Street, if the center line of East 121st Street were to be extended to the U.S. pierhead line; thence westerly along the center line of East 121st Street to the point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 124th Street; thence westerly along the center line of East 124th Street to the point and place of beginning.

(2) The East Harlem empire zone shall include the following blocks and lots: Block 1761, Lots 10, 28, 65; Block 1766, Lot 20; Block 1782, Lots 40, 50, 70, 80; Block 1794, Lot 80; Block 1803, Lot 60; Block 1811, Lots 50, 60, 127, 132, 142, 153; Block 1813, Lots 106, 9999; and Block 1819, Lots 10, 203.

k. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision l of

this section, the boundaries of the zone set forth in subdivision j of this section shall be superseded by subdivision l of this section.

l. There is hereby established in the borough of Manhattan an empire zone consisting of the following blocks and lots:

Area 1:

Block: 1602 Lots: 1; 7; 9; 12; 13; 16; 20; 25; 27; 33; 38; 40; 42; 44; 46; 50; 57; 58; 60; 66; 69; 7501.

Block: 1603 Lots: 1; 9; 11; 14; 20; 25; 27; 29; 31; 33; 34; 35; 39; 50; 51; 52; 53; 57; 58; 59; 60; 63; 69; 158.

Block: 1604 Lots: 1; 6; 13; 17; 23.

Block: 1605 Lots: 24.

Block: 1607 Lots: 1; 3; 5; 59; 69.

Block: 1608 Lots: 1; 5; 17; 23; 56; 57; 58; 59; 61; 62; 69.

Block: 1609 Lots: 1; 7; 14.

Block: 1610 Lots: 1; 9; 11; 12; 13; 15; 16; 17; 23; 55; 56; 57; 58; 59; 60; 62; 64; 116; 160.

Block: 1611 Lots: 1; 15.

Block: 1612 Lots: 1; 50.

Block: 1613 Lots: 6; 23; 70; 7501.

Block: 1614 Lots: 1; 12; 13; 14; 15; 16; 17; 21; 30; 57; 58; 60; 61; 62; 63; 64; 66; 69; 7501.

Block: 1615 Lots: 1; 5; 7; 9; 10; 11; 14; 23; 55; 56; 57; 59; 60; 66; 68.

Block: 1616 Lots: 1; 20; 21; 22; 23; 24; 25; 26; 28; 30; 31; 33; 34; 35; 36; 38; 39; 42; 49; 50; 51; 52; 53; 123; 141; 146.

Block: 1617 Lots: 1; 7; 20; 21; 22; 23; 25; 28; 29; 31; 33; 34; 35; 37; 38; 39; 40; 41; 42; 43; 45; 46; 48; 50; 51; 52; 53; 54; 121; 122.

Block: 1618 Lots: 1; 14.

Block: 1620 Lots: 23; 40.

Block: 1621 Lots: 1; 2; 3; 4; 5; 6; 7; 12; 13; 14; 20; 22; 23; 24; 25; 28; 29; 30; 31; 32; 35; 36; 41; 43; 47; 48; 49; 50; 52; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 145; 168.

Block: 1622 Lots: 1; 5; 13; 17; 20; 29; 30; 31; 33; 34; 35; 36; 37; 43; 50; 51; 52; 53; 73.

Block: 1623 Lots: 1; 24; 25; 26; 27; 29; 30; 31; 32; 33; 34; 35; 39; 40; 41; 42; 43; 44; 45; 47; 48; 49; 50; 102; 103; 105; 106; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 129; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 147; 226; 7501.

Block: 1624 Lots: 1; 7; 9; 10; 11; 14; 15; 20; 21; 25; 33; 41; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 60; 63;

64; 65; 66; 69.

Block: 1625 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 20; 21; 22; 23; 24; 25; 26; 27; 28; 33; 46; 47; 48; 50; 51; 52; 53; 57; 60; 61; 63; 65; 66; 67; 68; 69; 70; 71; 72; 101; 102; 168.

Block: 1626 Lots: 1; 21; 40.

Block: 1627 Lots: 1; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53.

Block: 1628 Lots: 1; 2; 4; 6; 10; 11; 12; 13; 14; 15; 16; 20; 22; 24; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 52; 57; 58; 60; 62; 64; 65; 66; 67; 68; 69; 70; 71; 72; 103; 159; 163; 165; 167; 169; 171; 7501; 7502.

Block: 1629 Lots: 1; 2; 3; 4; 6; 7; 8; 9; 10; 11; 12; 13; 14; 16; 20; 24; 25; 27; 28; 30; 33; 40; 47; 48; 49; 50; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 72; 101; 102; 103; 115; 116; 150; 157; 158; 159; 172.

Block: 1630 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 14; 16; 20; 21; 22; 25; 27; 29; 31; 32; 33; 35; 38; 41; 52; 53; 56; 59; 60; 61; 63; 65; 67; 69; 70; 72; 7501.

Block: 1631 Lots: 1; 2; 11; 12; 14; 16; 20; 22; 23; 24; 25; 30; 31; 32; 33; 34; 35; 37; 38; 39; 40; 41; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 56; 60; 62; 63; 65; 66; 68; 70; 71; 72; 101; 108; 115; 133; 140; 156.

Block: 1632 Lots: 1; 11; 15; 20; 22; 23; 24; 25; 26; 27; 29; 30; 32; 33; 34; 35; 37; 40; 41; 42; 44; 45; 46; 47; 48; 50; 51; 52; 53; 133; 145; 150; 151; 152; 153; 154; 155; 156; 7501.

Block: 1633 Lots: 1; 10; 13; 19; 20; 21; 22; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 51; 52; 53; 54; 61; 66; 7501.

Block: 1634 Lots: 1; 3; 8; 9; 12; 13; 14; 15; 16; 17; 21; 22; 23; 24; 25; 26; 27; 28; 29; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 56; 57; 59; 60; 62; 65; 111; 113; 115; 116; 117; 132; 140; 156; 157; 158.

Block: 1635 Lots: 1; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 48; 49; 50; 51; 52; 121; 122; 124; 126; 127; 128; 129; 132; 140; 141; 144; 145; 149; 150; 151.

Block: 1636 Lots: 1; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 121; 122; 123; 124; 126; 128; 130; 132; 138; 139; 140; 141; 142; 148; 150; 151.

Block: 1637 Lots: 1; 21; 22; 23; 24; 25; 26; 28; 30; 31; 32; 33; 35; 36; 37; 38; 40; 42; 43; 48; 50; 51; 52; 137; 141.

Block: 1638 Lots: 1; 4; 5; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 21; 22; 23; 24; 28; 29; 30; 31; 32; 33; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 52; 56; 57; 62; 63; 66; 67; 69; 72; 112; 121; 122; 131; 140; 141; 142; 146; 148.

Block: 1639 Lots: 1; 3; 17; 21; 25; 27; 28; 29; 30; 31; 34; 35; 36; 38; 39; 40; 41; 42; 43; 45; 46; 47; 48; 49; 50; 51; 52; 56; 57; 59; 62; 124; 133; 137; 150.

Block: 1640 Lots: 1; 21; 139; 147.

Block: 1643 Lots: 1; 4; 5; 6; 7; 8; 10; 12; 13; 14; 15; 16; 17; 18; 21; 22; 23; 24; 25; 26; 27; 28; 29; 31; 33; 35; 37; 38; 39; 40; 41; 44; 47; 48; 49; 50; 51; 52; 56; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 70; 71; 122; 123; 127; 129; 137;

149.

Block: 1644 Lots: 1; 5; 7; 8; 11; 12; 16; 21; 22; 23; 24; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 57; 58; 59; 65; 66; 67; 68; 69; 70; 72; 120; 121; 122; 124; 127; 129; 146; 147; 156; 164.

Block: 1645 Lots: 1; 3; 5; 6; 7; 12; 15; 20; 21; 22; 23; 24; 25; 27; 28; 29; 30; 31; 32; 33; 34; 35; 37; 38; 39; 40; 41; 44; 45; 46; 47; 48; 49; 50; 51; 52; 59; 61; 70; 71; 120; 121; 122; 124; 125; 126; 129; 132; 133; 134; 151; 152; 153; 155.

Block: 1646 Lots: 1; 6; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 28; 30; 31.

Block: 1647 Lots: 1.

Block: 1649 Lots: 1; 9.

Block: 1652 Lots: 1; 16.

Block: 1654 Lots: 1; 2; 3; 4; 5; 11; 25; 26; 27; 28; 29; 33; 39; 40; 41; 42; 45; 128; 139; 141.

Block: 1655 Lots: 1; 3; 5; 7; 9; 11; 12; 13; 14; 15; 16; 18; 19; 20; 22; 23; 24; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 38; 45; 102.

Block: 1656 Lots: 1; 50; 100.

Block: 1659 Lots: 1; 2; 12; 21; 22; 23; 24; 25; 26; 27; 28; 29; 31; 45; 46; 47; 48; 105; 121; 128; 130; 132; 144; 145; 147.

Block: 1660 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 19; 20; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 110; 111; 112; 113; 114; 115; 116; 117; 118; 120; 7501.

Block: 1661 Lots: 1; 2; 4; 10; 12; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 27; 28; 29; 30; 31; 34; 35; 36; 37; 38; 41; 43; 44; 45; 46; 47; 48; 105; 106; 107; 108; 109; 110; 121; 131; 132; 139; 140; 141; 7501.

Block: 1662 Lots: 1; 10; 16; 35; 40.

Block: 1665 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 21; 22; 23; 24; 25; 27; 28; 30; 31; 33; 34; 36; 38; 39; 40; 41; 42; 43; 45; 46; 47; 48; 50; 51; 101; 104; 105; 108; 110; 122; 127; 130; 145; 147; 150.

Block: 1666 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 27; 28; 30; 31; 33; 36; 39; 40; 41; 43; 44; 45; 47; 48; 104; 105; 107; 116; 118; 119; 120; 121; 127; 144; 145.

Block: 1667 Lots: 1; 3; 5; 6; 7; 8; 9; 11; 12; 13; 14; 15; 16; 18; 20; 21; 22; 24; 25; 26; 28; 29; 31; 32; 33; 34; 35; 36; 37; 39; 42; 43; 45; 102; 105; 120; 121; 122.

Block: 1668 Lots: 1.

Block: 1669 Lots: 1.

Block: 1671 Lots: 1; 3; 23; 25; 27; 30; 31; 39; 41; 43; 45; 47; 51; 52.

Block: 1672 Lots: 1; 10; 17.

Block: 1673 Lots: 1; 4; 6; 15; 49; 50; 51; 52.

Block: 1674 Lots: 1; 2; 3; 4; 5; 7; 8; 10; 11; 13; 40; 42; 43; 45; 46; 48; 49; 50; 51; 52; 104; 7501.

Block: 1675 Lots: 1; 2; 3; 4; 5; 9; 10; 11; 17; 19; 21; 22; 23; 27; 29; 30; 31; 32; 33; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 104; 148.

Block: 1676 Lots: 1; 2; 3; 4; 5; 6; 7; 9; 10; 11; 17; 18; 19; 20; 22; 23; 25; 26; 27; 28; 30; 31; 32; 34; 35; 36; 43; 44; 45; 48; 49; 50; 51; 52; 104; 123; 148; 7501; 7502; 7503.

Block: 1677 Lots: 1; 2; 3; 4; 5; 8; 9; 14; 22; 23; 24; 25; 26; 29; 31; 32; 33; 35; 36; 37; 38; 39; 40; 41; 42; 44; 45; 46; 47; 49; 50; 51; 52; 104; 7501; 7502; 7503.

Block: 1678 Lots: 1.

Block: 1680 Lots: 1; 2; 3; 11; 13; 15; 17; 19; 21; 23; 25; 27; 30; 32; 37; 38; 39; 40; 41; 42; 43; 44; 45; 48; 49; 50; 52; 148; 149; 150; 7501.

Block: 1681 Lots: 1; 2; 3; 4; 5; 6; 7; 11; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 35; 36; 37; 41; 42; 45; 46; 49; 50; 52; 104; 123; 130; 149.

Block: 1682 Lots: 1; 2; 3; 4; 5; 6; 7; 11; 46; 49; 50; 51; 52.

Block: 1683 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 11; 13; 18; 26; 27; 28; 29; 30; 31; 33; 34; 36; 39; 42; 43; 44; 45; 47; 49; 50; 51; 52; 104; 130; 149; 7501.

Block: 1684 Lots: 1; 101.

Block: 1687 Lots: 1; 2; 3; 4; 5; 8; 9; 11; 14; 17; 19; 21; 22; 23; 24; 25; 26; 27; 28; 30; 31; 32; 33; 34; 35; 36; 37; 38; 40; 41; 42; 43; 44; 45; 46; 47; 49; 51; 52; 102; 104; 123; 124; 127; 129; 130; 132; 133; 135; 137; 149; 151.

Block: 1688 Lots: 1; 2; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 25; 26; 30; 34; 35; 36; 37; 38; 39; 40; 42; 43; 44; 45; 50; 52; 53; 110; 112; 113; 115; 120; 121; 122.

Block: 1689 Lots: 1; 2; 4; 5; 23; 24; 25; 26; 27; 30; 46; 47; 49; 50; 51; 52; 126; 129; 130; 149.

Block: 1690 Lots: 1.

Block: 1691 Lots: 1; 6.

Block: 1693 Lots: 1; 30.

Block: 1694 Lots: 1; 51.

Block: 1695 Lots: 51.

Block: 1696 Lots: 1.

Block: 1699 Lots: 1.

Block: 1700 Lots: 1.

Block: 1701 Lots: 1; 29; 49.

Block: 1703 Lots: 128.

Block: 1704 Lots: 1; 5.

Block: 1708 Lots: 1; 2; 3; 4; 5; 7; 8; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 22; 24; 25; 26; 27; 28; 29; 30; 31; 33; 34; 36; 38; 39; 40; 41; 42; 45; 48; 120; 121; 124; 125; 128; 129; 133; 142.

Block: 1709 Lots: 1; 2; 3; 4; 5; 7; 10; 13; 15; 16; 20; 21; 22; 23; 24; 25; 26; 27; 34; 35; 36; 38; 39; 40; 42; 45; 46; 47; 48; 104; 111; 122; 139; 142.

Block: 1710 Lots: 1; 2; 3; 4; 6; 7; 8; 9; 10; 11; 12; 17; 18; 19; 21; 22; 24; 26; 27; 29; 31; 33; 34; 36; 39; 40; 41; 43; 44; 45; 46; 47; 48; 49; 50; 102; 104; 108; 130; 139; 143; 145.

Block: 1711 Lots: 1; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 15; 16; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 105; 111; 112; 120; 121; 125; 127; 128; 129; 130; 132; 140; 142; 143; 144; 145; 148.

Block: 1713 Lots: 1; 38.

Block: 1715 Lots: 1; 2; 3; 4; 5; 7; 10; 22; 38; 42; 43; 45; 46; 47; 48; 49; 50; 51; 53; 150.

Block: 1716 Lots: 1; 3; 5; 6; 7; 8; 9; 11; 13; 19; 28; 45; 47; 48; 49; 50; 51.

Block: 1745 Lots: 1; 2; 3; 5; 7; 14; 15; 16; 17; 24; 29; 40; 50; 54; 55; 69; 70; 71; 104; 126; 127; 128; 129; 130; 131; 132; 133; 134; 141; 142; 143; 144; 145; 146; 147; 148; 149; 150; 168; 7501.

Block: 1746 Lots: 1; 21; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 41; 42; 43; 44; 45; 46; 47; 48; 141; 145.

Block: 1747 Lots: 1; 35.

Block: 1748 Lots: 1; 35.

Block: 1749 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 14; 16; 21; 22; 23; 24; 31; 33; 35; 40; 43; 46; 48; 49; 50; 56; 59; 60; 61; 62; 63; 64; 66; 69; 101; 104; 107; 123; 160; 172.

Block: 1750 Lots: 1; 5; 6; 7; 9; 10; 12; 16; 21; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 34; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 52; 53; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 104; 142; 156; 158; 161; 165; 167; 168.

Block: 1751 Lots: 1; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 20; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 71; 105; 108; 110; 113; 116; 120; 126; 131; 132; 137; 142; 147; 149; 156; 160; 164; 167.

Block: 1752 Lots: 1; 7; 8; 9; 10; 11; 13; 14; 16; 17; 18; 19; 22; 54; 57; 59; 66; 67; 68; 69; 70; 72; 107; 113; 116; 165.

Block: 1753 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 13; 15; 16; 17; 21; 25; 26; 27; 33; 34; 35; 36; 37; 41; 42; 44; 45; 47; 49; 51; 52; 57; 58; 59; 61; 62; 63; 64; 65; 66; 67; 68; 69; 72; 102; 104; 105; 108; 115; 116; 117; 126; 134; 139; 140; 141; 162; 165; 168.

Block: 1754 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 20; 24; 25; 26; 29; 30; 31; 32; 33; 40; 41; 42; 43; 44; 45; 46; 47; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 67; 68; 70; 71; 72; 101; 102; 103; 108; 110; 112; 115; 116; 117; 131; 141; 142; 155; 156; 157; 161; 162; 167; 169; 7501.

Block: 1755 Lots: 1; 11; 20; 22; 23; 24; 25; 26; 27; 30; 31; 33; 41; 43; 44; 45; 46; 47; 48; 49; 50; 126; 143; 146; 7501.

Block: 1756 Lots: 1; 4; 5; 6; 8; 9; 11; 12; 14; 15; 16; 17; 21; 22; 23; 24; 25; 26; 28; 29; 30; 31; 32; 33; 37; 38; 39; 40; 41; 43; 44; 45; 47; 48; 49; 50; 51; 52; 56; 59; 60; 61; 62; 65; 66; 67; 68; 69; 70; 71; 72; 113; 7501.

Block: 1757 Lots: 1; 20; 169.

Block: 1760 Lots: 1; 46; 101.

Block: 1761 Lots: 10; 28; 65.

Block: 1763 Lots: 1.

Block: 1764 Lots: 1.

Block: 1767 Lots: 1; 2; 3; 4; 5; 11; 16; 21; 22; 26; 27; 28; 30; 33; 38; 39; 44; 45; 46; 47; 52; 60; 62; 67; 68; 69; 71; 72; 168; 169.

Block: 1768 Lots: 1; 3; 4; 5; 6; 7; 9; 11; 12; 21; 33; 34; 37; 38; 39; 40; 69; 70; 71; 111; 169; 170.

Block: 1769 Lots: 1; 3; 5; 21; 29; 32; 33; 36; 45; 132.

Block: 1770 Lots: 1; 2; 3; 4; 20; 21; 23; 24; 25; 27; 28; 29; 31; 32; 33; 36; 38; 39; 40; 41; 42; 43; 45; 46; 47; 48; 49; 50; 51; 52; 53; 67; 68; 69; 70; 71; 72; 75; 76; 77; 78; 79; 80; 81; 101; 123; 129; 141; 158; 159; 169; 170.

Block: 1771 Lots: 1; 2; 3; 4; 5; 6; 7; 10; 14; 17; 20; 21; 22; 23; 24; 25; 27; 33; 36; 38; 39; 41; 42; 43; 44; 47; 48; 49; 50; 51; 52; 56; 59; 65; 66; 67; 68; 69; 70; 71; 72; 113; 120; 121; 122; 123; 128; 167.

Block: 1772 Lots: 1; 2; 3; 4; 7; 8; 9; 10; 11; 12; 13; 17; 20; 22; 23; 24; 25; 26; 28; 29; 30; 31; 33; 34; 35; 37; 38; 39; 41; 45; 46; 47; 48; 49; 50; 51; 52; 55; 57; 58; 59; 60; 62; 64; 66; 67; 68; 69; 70; 71; 110; 112; 134; 140; 141; 150; 158.

Block: 1773 Lots: 1; 4; 7; 11; 15; 17; 18; 20; 27; 33; 57; 58; 61; 62; 67; 69; 72.

Block: 1774 Lots: 1; 5; 6; 7; 8; 9; 17; 20; 30; 33; 48; 51; 56; 58; 61; 65; 66; 67; 68.

Block: 1775 Lots: 1; 3; 6; 20; 28; 33; 40; 45; 47; 48; 49; 50; 52; 71; 149; 165; 166; 168; 170.

Block: 1776 Lots: 20.

Block: 1777 Lots: 1; 3; 5; 21; 69; 70; 80; 85; 90.

Block: 1778 Lots: 1; 6.

Block: 1779 Lots: 1; 7; 20; 60.

Block: 1780 Lots: 1.

Block: 1782 Lots: 40; 50; 70; 80.

Block: 1783 Lots: 1; 2; 3; 4; 5; 8; 9; 10; 11; 12; 13; 14; 15; 16; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 31; 34; 37; 38; 41; 42; 43; 44; 45; 46; 47; 48; 50; 109; 111; 117; 119; 120; 128.

Block: 1784 Lots: 1; 2; 3; 4; 5; 9; 11; 12; 21; 23; 24; 25; 26; 27; 28; 45; 47; 48; 120; 122; 128.

Block: 1785 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 14; 15; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29;

30; 31; 32; 33; 34; 36; 37; 38; 39; 42; 43; 46; 104; 111; 129; 146.

Block: 1786 Lots: 1; 4; 5; 6; 7; 9; 16; 17; 18; 22; 23; 24; 26; 27; 28; 31; 32; 33; 34; 35; 36; 37; 38; 39; 41; 42; 45; 46; 47; 104; 121; 123; 133.

Block: 1787 Lots: 1; 60; 70; 80.

Block: 1788 Lots: 1; 4; 5; 6; 7; 8; 9; 13; 14; 15; 17; 18; 19; 20; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 34; 35; 37; 38; 43; 44; 45; 46; 47; 48; 49; 50; 101; 104.

Block: 1789 Lots: 1; 4; 5; 9; 10; 11; 12; 13; 14; 15; 16; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 34; 35; 36; 37; 39; 42; 43; 45; 46; 50; 104; 121.

Block: 1790 Lots: 1; 3; 5; 6; 8; 12; 13; 20; 24; 25; 26; 27; 28; 29; 30; 31; 40; 41; 44; 45; 46; 49; 101.

Block: 1791 Lots: 1; 25; 34; 44.

Block: 1792 Lots: 1; 5; 9; 10; 11; 21; 29; 33; 34; 36; 37; 42; 50; 121.

Block: 1793 Lots: 1; 7.

Block: 1795 Lots: 1; 2; 3; 4; 5; 7; 9; 11; 12; 16; 17; 18; 20; 21; 22; 23; 24; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 39; 40; 49; 50; 51; 53; 104; 116; 140; 141; 142; 143; 144; 145; 146; 147; 148; 150.

Block: 1796 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 13; 14; 15; 16; 17; 18; 19; 21; 22; 23; 24; 25; 26; 27; 28; 29; 31; 32; 33; 34; 35; 36; 37; 38; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 106; 108; 110; 111; 112; 113; 114; 117; 124; 132; 136; 142; 144; 148; 152.

Block: 1797 Lots: 1; 100; 110.

Block: 1801 Lots: 1; 5; 100.

Block: 1802 Lots: 1; 30; 32; 34; 36; 38; 39; 40; 41; 42; 43; 45; 46; 47; 48.

Block: 1803 Lots: 1; 80; 85; 90.

Block: 1806 Lots: 1; 2; 3; 4; 5; 6; 7; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 25; 26; 27; 28; 29; 31; 32; 36; 37; 38; 39; 40; 41; 43; 44; 45; 46; 47; 48; 49; 101; 105; 109; 111; 115; 119; 120; 121; 127; 128; 129; 145.

Block: 1807 Lots: 1; 5; 9; 10; 11; 12; 13; 14; 15; 16; 18; 21; 22; 24; 28; 29; 30; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 113; 122; 133; 136; 138; 143.

Block: 1808 Lots: 1; 8.

Block: 1811 Lots: 21; 50; 60; 127; 132; 142; 153; 209.

Block: 1813 Lots: 106; 9999.

Block: 1815 Lots: 1; 2; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 23; 25; 31; 34; 35; 38; 40; 42; 43; 44; 45; 46; 47; 49; 104; 107; 110; 114; 145.

Block: 1816 Lots: 1; 23.

Area 2:

Block: 1819 Lots: 10.

Area 3:

Block: 1819 Lots: 203.

HISTORICAL NOTE

Section added L.L. 8/1987 § 1, effective 3/5/1987.

Subd. a repealed and added L.L. 57/1988 § 2.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. a expanded [pars (1)-(5) added] L.L. 83/2003 § 6, eff. Dec. 22, 2003. [See footnote]

Subd. b amended L.L. 52/2003 § 10, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. b "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c amended L.L. 52/2003 § 10, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. d amended L.L. 52/2003 § 10, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. i added L.L. 83/2003 § 7, eff. Dec. 22, 2003.

Subd. j added L.L. 83/2003 § 7, eff. Dec. 22, 2003.

Subd. k added L.L. 45/2006 § 4, eff. Nov. 9, 2006. [See Note 1]

Subd. l added L.L. 45/2006 § 4, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 3. (a) By Local Law No. 8 for the year 1987, adopted on March 5, 1987, the council of the city of New York authorized an application for the designation of the East Harlem economic development zone relative to certain land within the borough of Manhattan.

(b) The city of New York has received economic development zone approval from New York State.

(c) By Local Law No. 57 for the year 1988, adopted on August 19, 1988, the boundaries of the East Harlem economic development zone were revised.

(d) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the East Harlem economic development zone is now known as the East Harlem empire zone.

(e) By Local Law No. 83 for the year 2003, adopted on December 22, 2003, the boundaries of the East Harlem empire zone were revised a second time.

(f) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the East Harlem empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(g) The East Harlem empire zone has been configured into three distinct and separate contiguous areas. Such areas are described by block and lot in subdivision l of section 22-703 of the administrative code of the city of New York, as added by section four of this local law.

(h) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Manhattan as the East Harlem empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(i) Pursuant to Article 18-B of the General Municipal Law, the East Harlem Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the East Harlem Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

25

[Footnote 25]: * § 6. The boundaries of the East Harlem empire zone, as described in subdivision a of section 22-703 of the administrative code of the city of New York, shall be expanded to include the properties generally described as follows:

(1) BEGINNING at the point of intersection point of the center line of East 132nd Street and a point 100 feet west to the west of the southbound roadway of Park Avenue as measured from its westerly street line;

thence westerly along the center line of East 132nd Street to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the southerly side of East 126th Street; thence westerly along the southerly side of East 126th Street to the point where it meets the center line of Fifth Avenue; thence southerly along the center line of Fifth Avenue to the point where it meets the center line of East 124th Street; thence easterly along the center line of East 124th Street to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the center line of East 120th Street; thence westerly along the center line of East 120th Street to the point where it meets the center line of Fifth Avenue; thence southerly along the center line of Fifth Avenue to the point where it meets the center line of East 115th Street; thence easterly along the center line of East 115th Street to the point where it meets the westerly side of Madison Avenue; thence southerly along the westerly side of Madison Avenue to the point where it meets the southerly side of East 112th Street; thence westerly along the southerly side of East 112th Street to the point where it meets the center line of Fifth Avenue; thence southerly along the center line of Fifth Avenue to the point where it meets the center line of East 102nd Street; thence easterly along the center line of East 102nd Street to the point where it meets the westerly side of Lexington Avenue; thence southerly along the westerly side of Lexington Avenue to the point where it meets the center line of East 96th Street; thence easterly along the center line of East 96th Street to the point where it meets the easterly side of the U.S. pierhead line as it appears on Sheet 6b of the Zoning Map of the New York City Planning Commission as amended effective December eleventh, two thousand one; thence northerly along the U.S. pierhead line to the point where it meets the center line of East 111th Street; thence westerly along the center line of East 111th Street to a point where it meets the center line of a street named "A New Street"; thence southerly along the center line of "A New Street" to the point where it meets the center line of East 110th Street; thence easterly along the center line of East 110th Street to the point where it meets the center line of First Avenue; thence southerly along the center line of First Avenue to the point where it meets the center line of the block bounded on the north by East 110th Street and on the south by East 109th Street, said line being the district boundary line between the M1-4 and R7-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence westerly along the center line of such block to a point located 100 feet to the east of Second Avenue as measured by its easterly street side; thence northerly along a line 100 feet to the east of Second Avenue and running parallel thereto to the point where it meets the center line of East 111th Street, said line being the district boundary line between the M1-4 and R7-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence easterly along the center line of East 111th Street to the point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 114th Street; thence easterly along the center line of East 114th Street to the point where it meets the U.S. pierhead line as it appears on Sheet 6b as described aforesaid; thence northerly along the U.S. pierhead line to the point where it meets the center line of East 116th Street; thence westerly along the center line of East 116th Street to a point located 250 feet to the east of Pleasant Avenue as measured from its easterly street line; thence northerly along a line 250 feet to the east of Pleasant Avenue and running parallel thereto to the point where it meets the center line of East 119th Street; thence easterly along the center line of East 119th Street to the point where it meets the U.S. pierhead line as it appears on Sheet 6b as described aforesaid; thence northerly along the U.S. pierhead line to the point where it meets the center line of East 121st Street, if the center line of East 121st Street were to be extended easterly to the U.S. pierhead; thence westerly along the center line of East 121st Street, if said line were to extend to the U.S. pierhead, to a point where it meets the center line of First Avenue; thence northerly along the center line of First Avenue to the point where it meets the center line of East 124th Street; thence westerly along the center line of East 124th Street to a point located 100 feet to the east of Third Avenue as measured from its easterly street line; thence southerly along a line located 100 feet to the east of Third Avenue and running parallel thereto to the point where it meets the center line of East 123rd Street; thence westerly along the center line of East 123rd Street to a point where it meets a point located 100 feet to the west of Third Avenue as measured from its westerly street line; thence northerly along a line 100 feet to the west of Third Avenue and running parallel thereto to a point where it meets the center line of East 124th Street; thence westerly along the center line of East 124th Street to a point located 100 feet to the east of the northbound roadway of Park Avenue as measured from

its easterly street line; thence southerly along a line 100 feet to the east of the northbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 116th Street; thence westerly along the center line of East 116th Street to a point located 100 feet to the east of the southbound roadway of Park Avenue as measured from its easterly street line; thence northerly along a line 100 feet to the east of the southbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of the block bounded on the north by East 125th Street and on the south by East 124th Street; thence westerly along the center line of such block to the point where it meets the center line of Madison Avenue; thence northerly along the center line of Madison Avenue to the center line of East 126th Street; thence easterly along the center line of East 126th Street to a point located 100 feet to the west of the southbound roadway of Park Avenue as measured from its westerly street line; thence northerly along a line 100 feet to the west of the southbound roadway of Park Avenue and running parallel thereto to the point where it meets the center line of East 127th Street; thence easterly along the center line of East 127th Street to the point where it meets the center line of Park Avenue; thence northerly along the center line of Park Avenue to the point where it meets the center line of East 128th Street; thence westerly along the center line of East 128th Street to a point located 100 feet to the west of the southbound roadway of Park Avenue as measured from its westerly street line; thence northerly along a line 100 feet to the west of the southbound roadway of Park Avenue and running parallel thereto to the point and place of beginning.

(2) BEGINNING at the point of intersection of the center line of East 131st Street and the westerly street line of Lexington Avenue; thence westerly along the center line of East 131st Street to a point located 80 feet to the west of Lexington Avenue as measured from its westerly street line; thence southerly along a line 80 feet to the west of Lexington Avenue and running parallel thereto to the center line of a block bounded by East 131st Street on the north and East 130th Street on the south; thence easterly along the center line of such block to the point where it meets the westerly street line of Lexington Avenue; thence northerly along the westerly street line of Lexington Avenue to the point and place of beginning.

(3) BEGINNING at the point of intersection of the center line of East 131st Street and the center line of the southbound roadway of Park Avenue; thence easterly along the center line of East 131st Street to the point where it meets the easterly street line of Park Avenue; thence northerly along the easterly street line of Park Avenue to the point where it meets the center line of East 132nd Street; thence westerly along the center line of East 132nd Street to the point where it meets the center line of the southbound roadway of Park Avenue; thence southerly along the center line of the southbound roadway of Park Avenue to the point and place of beginning.

(4) BEGINNING at the point of intersection of the center line of East 128th Street and a point located 105 feet to the east of Third Avenue as measured from its easterly street line; thence southerly along a line 105 feet to the east of Third Avenue and running parallel thereto to the point where it meets the center line of East 127th Street, said line being the district boundary line between the M3-1 and R7-2 zoning districts as it appears on Sheet 6a of the Zoning Map of the New York City Planning Commission as amended effective December eleventh, two thousand one; thence easterly along the center line of East 127th Street to a point located 250 feet to the west of Second Avenue as measured from its westerly street line; thence southerly along a line 250 feet to the west of Second Avenue and running parallel thereto to the point where it meets the center line of the block bounded on the north by East 127th Street and on the south by East 126th Street, said line being the district boundary line between the R7-2 and M1-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence easterly along the center line of such block to the point where it meets the center line of Second Avenue, said line being the district boundary line between the R7-2 and M1-2 zoning districts as it appears on Sheet 6b as described aforesaid; thence southerly along the center line of Second Avenue to the point where it meets the center line of East 126th Street; thence westerly along the center line of East 126th Street to the easterly street line of Third Avenue; thence northerly along the easterly street line of Third Avenue to the point where it meets the center line of East 128th Street; thence easterly along the center line of Third Avenue to the point and place of beginning.

(5) The East Harlem empire zone shall include the following blocks and lots: Block 1761, Lots 10, 28, 65; Block 1766, Lot 20; Block 1782, Lots 40, 50, 70, 80; Block 1794, Lot 80; Block 1803, Lot 60; Block 1811, Lots 50, 60, 127, 132, 142, 153; Block 1813, Lots 106, 9999; and Block 1819, Lots 10, 203.

126 of 140 DOCUMENTS

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-704

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-704 East Brooklyn zone.

a.* There26 is hereby established in the borough of Brooklyn an empire zone as follows:

BEGINNING at the point of intersection of the center line of Broadway and the center line of Van Sinderen Avenue; thence southeasterly along the center line of Broadway to the point where it meets the center line of Fulton Street; thence easterly along the center line of Fulton Street to the point where it meets the center line of Sheffield Avenue; thence northerly along the center line of Sheffield Avenue to the point where it meets the center line of Jamaica Avenue; thence northeasterly along the center line of Jamaica Avenue to the point where it meets the center line of Wyona Street; thence southerly along the center line of Wyona Street to a point 100 feet to the south of Fulton Street as measured from its southerly street line; thence westerly along a line 100 feet to the south of Fulton Street and running parallel thereto to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the C8-2 and R5 zoning

districts as it appears on Sheet 17c of the Zoning Map of the New York City Planning Commission as amended effective August eleventh, nineteen hundred eighty-eight (A-1500), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of New Jersey Avenue to a point 150 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Vermont Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Vermont Street to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Bradford Street, said line being

the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Bradford Street to the point where it meets the center line of Atlantic Avenue; thence easterly along the center line of Atlantic Avenue to the point where it meets the center line of Hendrix Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Hendrix Street to a point 100 feet north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Jerome Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Jerome Street to a point 150 feet to the

north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Elton Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Elton Street to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Essex Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Essex Street to a point 200 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 200 feet to the north of Atlantic

Avenue and running parallel thereto to the point where it meets the center line of Sheperd Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Shepherd Avenue to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Norwood Avenue, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Norwood Avenue to a point 300 feet to the north of Atlantic Avenue as measured from its northerly streetline; thence easterly along a line 300 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Logan Street, said line being the

district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Logan Street to a point 100 feet to the south of Fulton Street as measured from its southerly street line; thence easterly along a line 100 feet to the south of Fulton Street and running parallel thereto to the point where it meets the center line of Chestnut Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Chestnut Street to the point where it meets the center line of Fulton Street; thence easterly along the center line of Fulton Street to the point where it meets the center line of Euclid Avenue, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Euclid Avenue to the point where it meets the

center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to the point where it meets the center line of Fountain Avenue, said line being the district boundary lines between the C8-2 and R5 zoning districts and the M1-1 and R5 zoning districts as they appear on Sheet 17c as described aforesaid; thence southerly along the center line of Fountain Avenue to a point 300 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Milford Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Milford Street to a point 335 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 335 feet to the south of Atlantic Avenue and running parallel

thereto to a point on the center line of the block bounded by Milford Street on the east and Montauk Avenue on the

west, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of such block to a point 238 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 238 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Montauk Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Montauk Avenue to the point where it meets the center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to the point where it meets the center line of Berriman Street, said line being the district boundary line between the C8-2 and R5 zoning

districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Berriman Street to a point 300 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Essex Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Essex Street to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to a point where it meets the center line of Linwood Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Linwood Street to the

point where it meets the center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to a point which formerly constituted the center line of Elton Street as such street met Atlantic Avenue from the south and now constitutes the center line of the block bounded by Linwood Street on the east and Cleveland Street on the west, said line being the district boundary lines between the C8-2 and R5 zoning districts and the M1-1 and R5 zoning districts as they appear on Sheet 17c as described aforesaid; thence southerly along such center line to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to a point where it meets the center line of Cleveland Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Cleveland Street to

a point 100 feet to the north of Liberty Avenue as measured from its northerly street line; thence westerly along a line 100 feet to the north of Liberty Avenue and running parallel thereto to the point where it meets the center line of Ashford Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Ashford Street to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Barbey Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Barbey Street to a point 100 feet to the south of Liberty Avenue as measured from its southerly street line; thence westerly along a line 100

feet to the south of Liberty Avenue and running parallel thereto to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of New Jersey Avenue to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point on the center line of the block bounded by Pennsylvania Avenue on the east and Sheffield Avenue on the west, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of such block to the point where it meets the center line of Pitkin Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of Pitkin Avenue to the point where

it meets the center line of Sheffield Avenue; thence southerly along the center line of Sheffield Avenue to the point where it meets the center line of Dumont Avenue; thence westerly along the center line of Dumont Avenue to the point

where it meets the center line of Snediker Avenue; thence southerly along the center line of Snediker Avenue to a point 150 feet to the north of New Lots Avenue as measured from its northerly street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Vermont Street; thence northerly along the center line of Vermont Street to the point where it meets the center line of Riverdale Avenue; thence easterly along the center line of Riverdale Avenue to the point where it meets the center line of Miller Avenue; thence northerly along the center line of Miller Avenue to a point 150 feet to the north of Riverdale Avenue as measured from its northerly street line; thence easterly along

a line 150 feet to the north of Riverdale Avenue and running parallel thereto to the point where it meets the center line of Van Siclen Avenue; thence northerly along the center line of Van Siclen Avenue to a point 150 feet to the north of New Lots Avenue as measured from its northerly street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Barbey Street; thence northerly along the center line of Barbey Street to the point where it meets the center line of Livonia Avenue, said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective February eleventh, nineteen hundred and eighty-eight (A-1489), as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Livonia Avenue to the point where it meets the center line of Schenck Avenue,

said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Schenck Avenue to a point 100 feet to the north of Livonia Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Livonia Avenue and running parallel thereto to the point where it meets the center line of Warwick Street, said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Warwick Street to a point 150 feet to the north of Livonia Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Livonia Avenue and running parallel thereto to the point where it meets the center line of Cleveland Street; thence northerly along the center line of Cleveland Street to a point 150 feet to the north of New Lots Avenue as measured

from is northerly street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Elton Street; thence southerly along the center line of Elton Street to the point where it meets the center line of New Lots Avenue; thence northeasterly along the center line of New Lots Avenue to the point where it meets the center line of Dumont Avenue; thence easterly along the center line of Dumont Avenue to the point where it meets the center line of Fountain Avenue; thence southeasterly along the center line of Fountain Avenue to the point where it meets the center line of Linden Boulevard; thence northeasterly along the center line of Linden Boulevard to the point where it meets the center line of Holly Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence southerly along the center line of Holly Street to the point where it

meets the center line of Stanley Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Stanley Avenue to the point where it meets the center line of Fountain Avenue; thence southeasterly along the center line of Fountain Avenue to a point 260 feet to the north of Vandalia Avenue as measured from its northerly street line, said line being the district boundary lines between the M1-1 and R4 zoning districts and the M1-1 and R3-2 zoning districts as they appear on Sheet 17d as described aforesaid and on Sheet 18b of the Zoning Map of the New York City Planning Commission as amended effective October thirteenth, nineteen hundred eighty-eight (A-1507), as contained in the Zoning Resolution of the City of New York; thence southwesterly along a line 260 feet to the north of Vandalia Avenue and running parallel thereto to a point 980 feet to the west of Fountain Avenue as measured from

its westerly street line, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 18b as described aforesaid and on Sheet 17d as described aforesaid; thence northwesterly along a line 980 feet to the west of Fountain Avenue and running parallel thereto to the point where it meets the center line of

Flatlands Avenue, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence southhwesterly along the center line of Flatlands Avenue to the point where it meets the center line of Elton Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence northwesterly along the center line of Elton Street to the point where it meets the center line of Linden Boulevard, said line being the district boundary lines between the M1-1 and R5 zoning districts and the C8-1 and R5 zoning districts as they

appear on Sheet 17d as described aforesaid; thence westerly along the center line of Linden Boulevard to the point where it meets the center line of Warwick Street, said line being the district boundary line between the C4-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Warwick Street to a point 150 feet to the south of New Lots Avenue as measured from its southerly street line; thence southwesterly along a line 150 feet to the south of New Lots Avenue and running parallel thereto to the point where it meets the center line of Snediker Avenue; thence southerly along the center line of Snediker Avenue to the point where it meets the center line of Hegeman Avenue; thence westerly along the center line of Hegeman Avenue to the point where it meets the center line of Mother Gaston Boulevard; thence northerly along the center line of Mother Gaston Boulevard to a point 150 feet to the north of New Lots Avenue as measured from its northerly

street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Lott Avenue; thence easterly along the center line of Lott Avenue to the point where it meets the center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of Newport Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Newport Street to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the center line of such block to the point where it meets the center line of Riverdale Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence easterly along the center line of Riverdale Avenue

to the point where it meets the center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of Dumont Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Dumont Avenue to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the center line of such block to a point 100 feet to the south of Blake Avenue as measured from its southerly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence easterly along a line 100 feet to the south of Blake Avenue and running parallel thereto to the point where it meets the center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of

Blake Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Blake Avenue to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the center line of such block to the point where it meets the center line of Sutter Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Sutter Avenue to the point where it meets the center line of Powell Street; thence northerly along the center line of Powell Street to the point where it meets the center line of Liberty Avenue, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17d as described aforesaid and Sheet 17c as described aforesaid; thence westerly along the center line of Liberty

Avenue to the point where it meets the center line of Mother Gaston Boulevard, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Mother Gaston Boulevard to the point where it meets the center line of East New York Avenue, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17d

as described aforesaid; thence southwesterly along the center line of East New York Avenue to the point where it meets the center line of Saint Marks Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of Saint Marks Avenue to the point where it meets the center line of Eastern Parkway, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence

northeasterly along the center line of Eastern Parkway to the point where it meets the center line of Bergen Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence easterly along the center line of Bergen Street to the point where it meets the center line of Mother Gaston Boulevard, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Mother Gaston Boulevard to a point on the center line of the block bounded by Bergen Street on the south and Dean Street on the north; thence easterly along the center line of such block to a point 100 feet to the west of East New York Avenue as measured from its westerly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northeasterly along a line 100 feet to

the west of East New York Avenue and running parallel thereto to the point where it meets the center line of Dean Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence easterly along the center line of Dean Street to the point where it meets the center line of Sackman Street; thence northerly along the center line of Sackman Street to a point on the center line of the block bounded by Atlantic Avenue on the south and Herkimer Street on the north, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of such block to a point on the center line of the block bounded by Sackman Street on the east and Sherlock Place on the west; thence northerly along the center line of such block to the place where it meets the center line of Herkimer Street, said line being the district boundary line between M1-2 and

R6 zoning districts as it appears on Sheet 17c as described aforesaid, thence westerly along the center line of Herkimer Street to a point where it meets the prolongation of the center line of Sherlock Place, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the prolongation of such center line to the point where it meets the center line of Fulton Street, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence easterly along the center line of Fulton Street to the point where it meets the center line of Van Sinderen Avenue; thence northerly along the center line of Van Sinderen Avenue to the point and place of beginning.

There is one subzone BEGINNING at the point of intersection of the center line of Louisiana Avenue and the center line of Linden Boulevard; thence southeasterly along the center line of Linden Boulevard to the point where it meets the center line of Alabama Avenue; thence easterly along the center line of Linden Boulevard to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective February eleventh, nineteen hundred eighty-eight (A-1489), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of New Jersey Avenue to the point where it meets the center line of Stanley Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Stanley Avenue to the point where it meets the center line of Pennsylvania Avenue; thence southerly along the center line of Pennsylvania Avenue to the point where it meets the center line of Flatlands Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Flatlands Avenue to the point where it meets the center line of Louisiana Avenue, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Louisiana Avenue to the point where it meets the center line of Stanley Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid;

thence southwesterly along the center line of Stanley Avenue to the point where it meets the center line of East 108th Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along East 108th Street to the point where it meets the center line of Van Sinderen Avenue; thence northerly along the center line of Van Sinderen Avenue to the point where it meets the center line of De Witt Avenue; thence easterly along the center line of De Witt Avenue to the point where it meets the center line of Louisiana Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Louisiana Avenue to the point and place of beginning.

b. The chairperson of the economic development corporation shall be the zone certification officer of the East Brooklyn empire zone.

c. The administrative board of the East Brooklyn empire zone shall be comprised of:

1. the commissioner of the department of small business services;

2. the president of the economic development corporation;

3. the commissioner of social services;

4. the commissioner of the department of housing preservation and development;

5. the member or members of the city council whose districts include the East Brooklyn zone;

6. a member appointed by the president of the borough of Brooklyn. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the borough president;

7. a representative of the local chamber of commerce or like group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor; and

8. a representative of a local community group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor.

d. The commissioner of the department of small business services development shall be the chairperson of the board. The administrative board shall choose at its first meeting one of its members who shall be treasurer and may appoint a secretary.

e. A majority of the members shall constitute a quorum of such board.

f. Whenever any act is authorized to be done or any determination or decision made by the board, the act, determination or decisions of the majority of the board shall be held to be the act, determination or decision of the board.

g. Members of the board shall serve as such without compensation but shall be reimbursed for actual and necessary out-of-pocket expenses in connection with attendance at regularly scheduled meetings of the board.

h. The board shall meet at least four times each year.

i. Upon approval by the commissioner of the New York state department of economic development of the request to revise the boundaries of the East Brooklyn empire zone, the boundaries of the zone set forth in subdivision a of this section shall be superseded by the boundaries of the zone set forth in subdivision j of this section.

j. There is hereby established in the borough of Brooklyn an empire zone as follows:

(1) BEGINNING at the point of intersection of the center line of Broadway and the center line of Van Sinderen Avenue; thence southeasterly along the center line of Broadway to the point where it meets the center line of Fulton Street; thence easterly along the center line of Fulton Street to the point where it meets the center line of Sheffield Avenue; thence northerly along the center line of Sheffield Avenue to the point where it meets the center line of Jamaica Avenue; thence northeasterly along the center line of Jamaica Avenue to the point where it meets the center line of Wyona Street; thence southerly along the center line of Wyona Street to a point 100 feet to the south of Fulton Street as measured from its southerly street line; thence westerly along a line 100 feet to the south of Fulton Street and running parallel thereto to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the

C8-2 and R5 zoning districts as it appears on Sheet 17c of the Zoning Map of the New York City Planning Commission as amended effective December nineteenth, two thousand, as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of New Jersey Avenue to a point 150 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Vermont Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Vermont Street to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Bradford Street, said line being the

district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Bradford Street to the point where it meets the center line of Atlantic Avenue; thence easterly along the center line of Atlantic Avenue to the point where it meets the center line of Hendrix Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Hendrix Street to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Jerome Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Jerome Street to a point 150 feet to the

north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Elton Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Elton Street to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Essex Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Essex Street to a point 200 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 200 feet to the north of Atlantic

Avenue and running parallel thereto to the point where it meets the center line of Sheperd Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Shepherd Avenue to a point 100 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Norwood Avenue, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Norwood Avenue to a point 300 feet to the north of Atlantic Avenue as measured from its northerly street line; thence easterly along a line 300 feet to the north of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Logan Street, said line being the

district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid;

thence northerly along the center line of Logan Street to a point 100 feet to the south of Fulton Street as measured from its southerly street line; thence easterly along a line 100 feet to the south of Fulton Street and running parallel thereto to the point where it meets the center line of Chestnut Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Chestnut Street to the point where it meets the center line of Fulton Street; thence easterly along the center line of Fulton Street to the point where it meets the center line of Euclid Avenue, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Euclid Avenue to the point where it meets the

center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to the point where it meets the center line of Fountain Avenue, said line being the district boundary lines between the C8-2 and R5 zoning districts and the M1-1 and R5 zoning districts as they appear on Sheet 17c as described aforesaid; thence southerly along the center line of Fountain Avenue to a point 300 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Milford Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Milford Street to a point 335 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 335 feet to the south of Atlantic Avenue and running parallel

thereto to a point on the center line of the block bounded by Milford Street on the east and Montauk Avenue on the west, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of such block to a point 238 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 238 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Montauk Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Montauk Avenue to the point where it meets the center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to the point where it meets the center line of Berriman Street, said line being the district boundary line between the C8-2 and R5 zoning

districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Berriman Street to a point 300 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Essex Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Essex Street to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to a point where it meets the center line of Linwood Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Linwood Street to the

point where it meets the center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to a point which formerly constituted the center line of Elton Street as such street met Atlantic Avenue from the south and now constitutes the center line of the block bounded by Linwood Street on the east and Cleveland Street on the west, said line being the district boundary lines between the C8-2 and R5 zoning districts and the M1-1 and R5 zoning districts as they appear on Sheet 17c as described aforesaid; thence southerly along such center line to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to a point where it meets the center line of Cleveland Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Cleveland Street to

a point 100 feet to the north of Liberty Avenue as measured from its northerly street line; thence westerly along a line 100 feet to the north of Liberty Avenue and running parallel thereto to the point where it meets the center line of

Ashford Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Ashford Street to a point 100 feet to the south of Atlantic Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Atlantic Avenue and running parallel thereto to the point where it meets the center line of Barbey Street, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of Barbey Street to a point 100 feet to the south of Liberty Avenue as measured from its southerly street line; thence westerly along a line 100

feet to the south of Liberty Avenue and running parallel thereto to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of New Jersey Avenue to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point on the center line of the block bounded by Pennsylvania Avenue on the east and Sheffield Avenue on the west, said line being the district boundary line between the C8-2 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence southerly along the center line of such block to the point where it meets the center line of Pitkin Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of Pitkin Avenue to the point where

it meets the center line of Sheffield Avenue; thence southerly along the center line of Sheffield Avenue to the point where it meets the center line of Dumont Avenue; thence westerly along the center line of Dumont Avenue to the point where it meets the center line of Snediker Avenue; thence southerly along the center line of Snediker Avenue to a point 150 feet to the north of New Lots Avenue as measured from its northerly street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Vermont Street; thence northerly along the center line of Vermont Street to the point where it meets the center line of Riverdale Avenue; thence easterly along the center line of Riverdale Avenue to the point where it meets the center line of Miller Avenue; thence northerly along the center line of Miller Avenue to a point 150 feet to the north of Riverdale Avenue as measured from its northerly street line; thence easterly along

a line 150 feet to the north of Riverdale Avenue and running parallel thereto to the point where it meets the center line of Van Siclen Avenue; thence northerly along the center line of Van Siclen Avenue to a point 150 feet to the north of New Lots Avenue as measured from its northerly street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Barbey Street; thence northerly along the center line of Barbey Street to the point where it meets the center line of Livonia Avenue, said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-third, nineteen hundred ninety-seven, as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Livonia Avenue to the point where it meets the center line of Schenck Avenue, said line being

the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Schenck Avenue to a point 100 feet to the north of Livonia Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Livonia Avenue and running parallel thereto to the point where it meets the center line of Warwick Street, said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Warwick Street to a point 150 feet to the north of Livonia Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Livonia Avenue and running parallel thereto to the point where it meets the center line of Cleveland Street; thence northerly along the center line of Cleveland Street to a point 150 feet to the north of New Lots Avenue as measured from is northerly

street line; thence northeasterly along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Elton Street; thence southerly along the center line of Elton Street to the point where it meets the center line of New Lots Avenue; thence northeasterly along the center line of New Lots

Avenue to the point where it meets the center line of Dumont Avenue; thence easterly along the center line of Dumont Avenue to the point where it meets the center line of Fountain Avenue; thence southeasterly along the center line of Fountain Avenue to the point where it meets the center line of Linden Boulevard; thence northeasterly along the center line of Linden Boulevard to the point where it meets the center line of Holly Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence southerly along the center line of Holly Street to the point where it meets the center

line of Stanley Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Stanley Avenue to the point where it meets the center line of Fountain Avenue; thence southeasterly along the center line of Fountain Avenue to a point 260 feet to the north of Vandalia Avenue as measured from its northerly street line, said line being the district boundary lines between the M1-1 and R4 zoning districts and the M1-1 and R3-2 zoning districts as they appear on Sheet 17d as described aforesaid and on Sheet 18b of the Zoning Map of the New York City Planning Commission as amended effective June thirtieth, nineteen hundred ninety-nine, as contained in the Zoning Resolution of the City of New York; thence southwesterly along a line 260 feet to the north of Vandalia Avenue and running parallel thereto to a point 980 feet to the west of Fountain Avenue as measured from its westerly street line, said

line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 18b as described aforesaid and on Sheet 17d as described aforesaid; thence northwesterly along a line 980 feet to the west of Fountain Avenue and running parallel thereto to the point where it meets the center line of Flatlands Avenue, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Flatlands Avenue to the point where it meets the center line of Elton Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence northwesterly along the center line of Elton Street to the point where it meets the center line of Linden Boulevard, said line being the district boundary lines between the M1-1 and R5 zoning districts and the C8-1 and R5 zoning districts as they appear on Sheet 17d as described

aforesaid; thence westerly along the center line of Linden Boulevard to the point where it meets the center line of Warwick Street, said line being the district boundary line between the C4-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Warwick Street to a point 150 feet to the south of New Lots Avenue as measured from its southerly street line; thence southwesterly along a line 150 feet to the south of New Lots Avenue and running parallel thereto to the point where it meets the center line of Snediker Avenue; thence southerly along the center line of Snediker Avenue to the point where it meets the center line of Hegeman Avenue; thence westerly along the center line of Hegeman Avenue to the point where it meets the center line of Mother Gaston Boulevard; thence northerly along the center line of Mother Gaston Boulevard to a point 150 feet to the north of New Lots Avenue as measured from its northerly street line; thence northeasterly

along a line 150 feet to the north of New Lots Avenue and running parallel thereto to the point where it meets the center line of Lott Avenue; thence easterly along the center line of Lott Avenue to the point where it meets the center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of Newport Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Newport Street to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the center line of such block to the point where it meets the center line of Riverdale Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence easterly along the center line of Riverdale Avenue to the point where it meets the

center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of Dumont Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Dumont Avenue to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the

center line of such block to a point 100 feet to the south of Blake Avenue as measured from its southerly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence easterly along a line 100 feet to the south of Blake Avenue and running parallel thereto to the point where it meets the center line of Junius Street; thence northerly along the center line of Junius Street to the point where it meets the center line of Blake Avenue, said line being

the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Blake Avenue to a point on the center line of the block bounded by Junius Street on the east and Powell Street on the west; thence northerly along the center line of such block to the point where it meets the center line of Sutter Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Sutter Avenue to the point where it meets the center line of Powell Street; thence northerly along the center line of Powell Street to the point where it meets the center line of Liberty Avenue, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17d as described aforesaid and Sheet 17c as described aforesaid; thence westerly along the center line of Liberty Avenue to the point where it

meets the center line of Mother Gaston Boulevard, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Mother Gaston Boulevard to the point where it meets the center line of East New York Avenue, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence southwesterly along the center line of East New York Avenue to the point where it meets the center line of Saint Marks Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of Saint Marks Avenue to the point where it meets the center line of Eastern Parkway, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northeasterly along the center

line of Eastern Parkway to the point where it meets the center line of Bergen Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence easterly along the center line of Bergen Street to the point where it meets the center line of Mother Gaston Boulevard, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the center line of Mother Gaston Boulevard to a point on the center line of the block bounded by Bergen Street on the south and Dean Street on the north; thence easterly along the center line of such block to a point 100 feet to the west of East New York Avenue as measured from its westerly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northeasterly along a line 100 feet to the west of East New York

Avenue and running parallel thereto to the point where it meets the center line of Dean Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence easterly along the center line of Dean Street to the point where it meets the center line of Sackman Street; thence northerly along the center line of Sackman Street to a point on the center line of the block bounded by Atlantic Avenue on the south and Herkimer Street on the north, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence westerly along the center line of such block to a point on the center line of the block bounded by Sackman Street on the east and Sherlock Place on the west; thence northerly along the center line of such block to the place where it meets the center line of Herkimer Street, said line being the district boundary line between M1-2 and R6 zoning districts as it

appears on Sheet 17c as described aforesaid, thence westerly along the center line of Herkimer Street to a point where it meets the prolongation of the center line of Sherlock Place, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence northerly along the prolongation of such center line to the point where it meets the center line of Fulton Street, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 17c as described aforesaid; thence

easterly along the center line of Fulton Street to the point where it meets the center line of Van Sinderen Avenue; thence northerly along the center line of Van Sinderen Avenue to the point and place of beginning.

(2) BEGINNING at the point of intersection of the center line of Louisiana Avenue and the center line of Linden Boulevard; thence southeasterly along the center line of Linden Boulevard to the point where it meets the center line of Alabama Avenue; thence easterly along the center line of Linden Boulevard to the point where it meets the center line of New Jersey Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-third, nineteen hundred ninety-seven, as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of New Jersey Avenue to the point where it meets the center line of Stanley Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Stanley Avenue to the point where it meets the center line of Pennsylvania Avenue/Granville Payne Avenue; thence southerly along the center line of Pennsylvania Avenue/Granville Payne Avenue to the point where it meets the center line of Flatlands Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Flatlands Avenue to the point where it meets the center line of Louisiana Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Louisiana Avenue to the point where it meets the center line of Stanley Avenue, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence southwesterly along the center line of Stanley Avenue to the point where it meets the center line of East 108th Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence southerly along the center line of East 108th Street to the point where it meets the center line of Farragut Road, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly along the center line of Farragut Road to the point where it meets the center line of East 99th Street, said line being the district boundary line between the M1-1 and R5 zoning districts and the M1-1 and C8-1 zoning districts as they appear on Sheet 17d as described aforesaid and on Sheet 23c of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six, as contained in the Zoning Resolution of the City of New York; thence northerly along the center line of East 99th Street to the point where it meets the center line of Foster Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 23c as described aforesaid; thence westerly along the center line of Foster Avenue to the point where it meets the center line of Rockaway Parkway, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Rockaway Parkway to the point where it meets the center line of Ditmas Avenue; thence easterly along the center line of Ditmas Avenue to the point where it meets the center line of East 98th Street; thence northerly along the center line of East 98th Street to the point where it meets the center line of Thomas S. Boyland Street; thence northerly along the center line of Thomas S. Boyland Street to the point where it meets the center line of Linden Boulevard; thence easterly along the center line of Linden Boulevard to the point where it meets the prolongation of the center line of East 105th Street, said line being the district boundary line between the M1-1 and R5 zoning districts and the M3-1 and R6 zoning districts as they appear on Sheet 17d as described aforesaid; thence southerly along the center line of the prolongation of East 105th Street and the center line of East 105th Street to a point 50 feet to the north of Foster Avenue as measured from its northerly street line; thence easterly along a line 50 feet to the north of Foster Avenue and running parallel thereto to the point where it meets the center line of Van Sinderen Avenue; thence northerly along the center line of Van Sinderen Avenue to the point where it meets the center line of De Witt Avenue; thence easterly along the center line of De Witt Avenue to the point where it meets the center line of Louisiana Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Louisiana Avenue to the point and place of beginning.

(3) BEGINNING at the point of intersection of the center line of Gateway Drive and a line 180 feet to the south of Fountain Street as measured from its southerly street line; thence easterly along a line 180 feet to the south of

Fountain Street and running parallel thereto to the point where it meets the center line of Erskine Street, said line being the district boundary line between the C4-2 and R6 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-third, nineteen hundred ninety-seven, as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Erskine Street to the point where it meets the center line of Gateway Drive, said line being the district boundary line between the C4-2 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly and thence northerly along the center line of Gateway Drive to the point and place of beginning.

(4) BEGINNING at the point of intersection of the center line of East 83rd Street and the main line set of tracks of the Bay Ridge Division of the Long Island Rail Road as they appear on Sheet 23a of the Zoning Map of the New York City Planning Commission as amended effective October thirty-first, two thousand one, as contained in the Zoning Resolution of the City of New York; thence northeasterly along said set of tracks to the point where it meets the center line of Remsen Avenue; thence southerly along the center line of Remsen Avenue to the point where it meets the center line of Foster Avenue; thence westerly along the center line of Foster Avenue to the point where it meets the center line of East 83rd Street; thence northerly along the center line of East 83rd Street to the point and place of beginning.

(5) BEGINNING at the point of intersection of the center line of Nostrand Avenue and the center line of Winthrop Street; thence easterly along the center line of Winthrop Street to the point where it meets the center line of New York Avenue; thence southerly along the center line of New York Avenue to the point 300 feet to the south of Clarkson Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Clarkson Avenue and running parallel thereto to the point where it meets the center line of Nostrand Avenue; thence northerly along the center line of Nostrand Avenue to the point and place of beginning.

k. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision l of this section, the boundaries of the zone set forth in subdivision j of this section shall be superseded by subdivision l of this section.

l. There is hereby established in the borough of Brooklyn an empire zone consisting of the following blocks and lots:

Area 1:

Block: 1437 Lots: 1; 8; 14; 15; 21; 23; 25; 26; 27; 29; 30; 37; 38; 46; 58; 64; 69; 70.

Block: 1444 Lots: 1; 5; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 27; 29; 30; 31; 33; 34; 35; 36; 37; 38; 39; 41; 42; 48; 49.

Block: 1450 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 27; 28; 29; 31; 36; 37; 38; 39; 40; 41; 42; 44; 45; 47; 48; 49; 50; 51; 53.

Block: 1455 Lots: 15; 24; 31; 35; 39; 40; 41; 42; 43; 44; 46; 50; 54; 56; 58; 60; 61; 62; 64; 65; 66; 67; 70; 79.

Block: 1456 Lots: 1.

Block: 1547 Lots: 1; 25; 32.

Block: 1553 Lots: 13; 18; 25; 26; 31; 32; 33; 34; 35; 37; 39.

Block: 1554 Lots: 1; 16; 52; 54; 55; 56; 57; 58; 59; 60; 61; 63; 64; 65.

Block: 1555 Lots: 1; 19.

Block: 1572 Lots: 16; 17; 18.

Block: 1573 Lots: 17; 18; 20; 21; 22; 23; 24; 25; 26; 37.

Block: 1574 Lots: 11; 12; 13; 14; 15; 16; 17; 18; 19; 23; 32.

Block: 1575 Lots: 1; 18; 22.

Block: 1576 Lots: 1; 9; 13; 31; 33; 34.

Block: 1577 Lots: 1; 7; 17; 26; 32; 35; 51; 53; 56; 58.

Block: 3641 Lots: 60.

Block: 3642 Lots: 1; 22; 40; 45; 49.

Block: 3643 Lots: 2; 5; 19; 23; 28; 38; 40; 43; 48.

Block: 3644 Lots: 1; 4; 14; 17; 21; 24; 117; 140; 180; 200; 210; 230; 231; 240

Block: 3650 Lots: 1; 21; 28; 40; 54; 58; 90; 93; 106; 119; 121; 140.

Block: 3658 Lots: 6.

Block: 3659 Lots: 1; 4; 14; 15; 35.

Block: 3660 Lots: 1; 2; 5; 7; 9; 25; 27; 29; 30.

Block: 3661 Lots: 1; 5; 9; 10; 11; 12; 13; 15; 16; 17; 19; 20; 24; 27; 28; 29; 30; 31; 33; 34; 35; 37; 39; 40; 41; 42.

Block: 3662 Lots: 1; 3; 4; 7; 8; 9; 10; 11; 13; 20; 22; 25; 26; 27; 28; 29; 30; 31; 38; 39; 40; 41; 42; 44; 45; 46; 47; 48; 49; 52; 53; 54; 55.

Block: 3665 Lots: 9; 13; 19; 20; 21; 23; 24; 25; 26; 27; 28; 29; 30; 32.

Block: 3666 Lots: 1; 5; 8; 10; 15; 18; 24; 25; 26; 27; 29; 31; 35; 36; 38.

Block: 3667 Lots: 1; 3; 6; 7; 8; 9; 10; 11; 13; 15; 18; 22; 24; 25; 26; 27; 28; 29; 33; 34; 36; 37; 38; 39; 41; 126.

Block: 3668 Lots: 1; 2; 8; 36.

Block: 3669 Lots: 1; 3; 5; 9; 10; 11; 12; 13; 17; 20; 22; 26; 28; 30; 33; 34; 35; 37; 38; 39; 40.

Block: 3670 Lots: 1; 7; 9; 13; 14; 15; 16; 17; 18; 25; 27; 29; 30; 31; 33; 35.

Block: 3671 Lots: 1; 3; 12; 13; 14; 15; 16; 17; 18; 19; 20; 30; 34; 36; 37; 38; 40; 41; 42; 43; 114.

Block: 3672 Lots: 1; 20; 22; 23; 24; 43; 46; 47; 48; 49; 50; 51.

Block: 3675 Lots: 1; 3; 4; 5; 7; 8; 10; 11; 14; 25; 27; 28.

Block: 3676 Lots: 1; 5; 9; 14; 15; 17; 19; 21; 23; 24; 25; 26; 27; 30; 32; 34; 36.

Block: 3677 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 15; 17; 18; 19; 26; 27; 28; 30; 31; 32; 33; 34; 35; 36; 37;

38; 39; 40; 42; 44; 45; 46; 48; 49.

Block: 3678 Lots: 1; 2; 3; 4; 5; 10; 38; 47.

Block: 3679 Lots: 1; 12; 15; 22; 30; 32; 33; 35; 36.

Block: 3680 Lots: 1; 10; 22; 29; 30; 31; 40; 129.

Block: 3681 Lots: 1; 9; 10; 11; 12; 13; 14; 15; 21; 22; 25; 31; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 50; 51; 106; 138.

Block: 3682 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 13; 14; 22; 26; 27; 28; 29; 30; 31; 33; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 101; 105; 109.

Block: 3683 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 25; 35; 37; 39; 40; 41; 42; 43; 44; 46; 47; 50; 51; 53; 55; 56; 102; 140.

Block: 3684 Lots: 1; 4; 7; 8; 12; 13; 14; 15; 18; 20; 22; 25; 27; 28; 29.

Block: 3685 Lots: 1; 5; 12; 16; 19; 20; 21; 24; 25; 26.

Block: 3686 Lots: 1; 4; 5; 6; 7; 8; 9; 11; 12; 13; 15; 16; 17; 19; 21; 23; 24; 25; 28; 29; 30; 31; 32; 33; 34; 39; 40; 41.

Block: 3687 Lots: 1; 5; 6; 7; 12; 33; 34; 35; 36; 37; 38.

Block: 3688 Lots: 1; 4; 5; 6; 7; 8; 9; 11; 18; 24; 25; 27; 28; 29; 30; 31; 32; 33; 37; 38; 39; 40; 108.

Block: 3689 Lots: 1; 11; 12; 19; 20; 21; 22; 23; 24; 25; 26.

Block: 3690 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 12; 13; 14; 15; 17; 19; 20; 21; 22; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34.

Block: 3691 Lots: 1; 5; 6; 8; 9; 10; 11; 13; 14; 15; 16; 18; 24; 28; 29; 30; 32.

Block: 3692 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 34; 35; 37; 105; 107.

Block: 3693 Lots: 1; 16; 17; 18; 19; 20; 22; 23.

Block: 3694 Lots: 1; 9; 14; 15; 16; 18; 20; 23; 24; 26.

Block: 3695 Lots: 1; 2; 3; 4; 5; 6; 8; 9; 10; 11; 13; 16; 17; 18; 19; 21; 23; 27; 31; 34.

Block: 3696 Lots: 1; 10; 17; 26.

Block: 3697 Lots: 1; 5; 12; 24; 25; 26; 27; 33; 36.

Block: 3698 Lots: 1; 3; 4; 5; 7; 8; 10; 12; 13; 14; 15; 17; 19; 21; 23; 32; 103.

Block: 3699 Lots: 1; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 31; 33; 34; 35; 36; 37; 38; 116.

Block: 3700 Lots: 1; 2; 3; 4; 5; 6; 8; 9; 11; 15; 18; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 39; 40.

Block: 3701 Lots: 1; 7; 14.

Block: 3702 Lots: 1; 25; 30; 33; 35; 36.

Block: 3703 Lots: 1; 4; 5; 6; 7; 8; 9; 10; 12; 13; 15; 16; 17; 18; 37; 38; 39; 40.

Block: 3705 Lots: 16.

Block: 3706 Lots: 14; 15; 18; 19; 21; 22; 23; 24; 25.

Block: 3707 Lots: 7; 15; 16.

Block: 3708 Lots: 11; 15.

Block: 3712 Lots: 1; 2; 3; 5; 8; 9; 11; 13; 14; 15; 17; 19; 21; 23; 24; 25; 26; 29; 31; 33; 36; 39; 40; 41; 42.

Block: 3713 Lots: 1; 26; 36; 38.

Block: 3714 Lots: 1; 5; 6; 7; 8; 9; 11; 14; 17; 19; 20; 21; 23; 24; 25; 27; 28; 29; 30.

Block: 3715 Lots: 1; 4; 6; 7; 8; 9; 10; 11; 12; 21; 33; 35; 37; 113.

Block: 3716 Lots: 1; 5; 9; 10; 11; 12; 14; 15; 16; 17; 18; 19; 20; 21; 23; 24; 25; 26; 27; 28; 30; 31; 32; 33; 35.

Block: 3717 Lots: 1; 3; 5; 6; 7; 20; 21; 22; 23; 24; 25; 26; 28; 124.

Block: 3718 Lots: 1.

Block: 3719 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 11; 13; 15; 16; 17; 19; 21; 23; 24; 25; 26; 27; 29; 30.

Block: 3720 Lots: 1; 2; 3; 4; 5; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18.

Block: 3729 Lots: 1; 2; 5; 7; 10; 13; 15; 17; 20; 22; 24; 27; 38.

Block: 3730 Lots: 1; 24; 25; 29.

Block: 3731 Lots: 1; 8; 15; 17; 32; 34; 36.

Block: 3732 Lots: 1; 7; 10; 18; 25; 31; 32; 36.

Block: 3733 Lots: 1.

Block: 3734 Lots: 1; 100.

Block: 3735 Lots: 1; 10.

Block: 3736 Lots: 1; 18.

Block: 3746 Lots: 1; 6; 9; 12; 14; 17; 23; 28; 31; 35; 37; 39; 41; 42; 45; 46; 47.

Block: 3747 Lots: 1; 16; 25; 29; 54.

Block: 3748 Lots: 17; 47.

Block: 3749 Lots: 2; 3; 5; 9; 10; 11; 12; 15; 20; 21; 22; 23; 24; 25; 26; 36; 37; 38; 111.

Block: 3750 Lots: 1; 4; 5; 9; 12; 13; 20; 27; 28; 29; 30; 31; 33; 130.

Block: 3751 Lots: 5; 30; 33; 34; 35.

Block: 3752 Lots: 1; 2; 34; 36; 37; 38; 39; 40; 41; 42; 43; 44.

Block: 3753 Lots: 1; 3; 4; 8; 34; 36; 37; 38; 39; 40; 41; 42; 43; 44.

Block: 3763 Lots: 1; 2; 3; 6; 8; 11; 13; 16; 18; 21; 26; 29; 31; 32; 38.

Block: 3764 Lots: 1; 2; 17; 20; 22; 25; 28; 30; 34.

Block: 3765 Lots: 1; 3; 8; 9; 13; 14; 15; 16; 17; 24; 25; 26; 27; 41; 117; 120; 121; 122; 123; 124; 125; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 144; 145.

Block: 3766 Lots: 1; 49.

Block: 3767 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 32; 36.

Block: 3768 Lots: 1; 18.

Block: 3769 Lots: 1; 30.

Block: 3770 Lots: 1; 22.

Block: 3780 Lots: 25; 27; 28; 30; 36; 38; 44.

Block: 3781 Lots: 1; 30; 34.

Block: 3782 Lots: 1; 6; 15; 120; 130; 140.

Block: 3783 Lots: 1.

Block: 3784 Lots: 1; 6; 106; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 127.

Block: 3785 Lots: 1; 15; 75.

Block: 3787 Lots: 1; 5.

Block: 3798 Lots: 1; 25; 30; 34.

Block: 3799 Lots: 1; 14; 26; 35; 43; 44; 45; 46; 47; 48; 49; 50; 51; 135; 136; 137; 138; 139; 140.

Block: 3815 Lots: 1; 30; 34.

Block: 3816 Lots: 1; 9; 23; 35; 36; 37; 38.

Block: 3831 Lots: 25; 30; 33; 36; 38; 46.

Block: 3832 Lots: 1; 30; 34.

Block: 3833 Lots: 1; 4; 5; 6; 21; 25; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 47; 48; 49; 50.

Block: 3838 Lots: 1; 5; 61; 62; 63; 64; 65; 66; 67; 68.

Block: 3839 Lots: 1; 46; 50; 51; 52; 53; 54.

Block: 3840 Lots: 1; 44; 45; 46; 47; 48; 49; 50.

Block: 3841 Lots: 1; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41.

Block: 3842 Lots: 1; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31.

Block: 3843 Lots: 14; 16; 17; 18; 19.

Block: 3844 Lots: 1.

Block: 3849 Lots: 1; 30; 34.

Block: 3850 Lots: 1; 5; 10; 16; 17; 22; 23; 24; 26; 27; 28; 29; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 42; 43; 144; 145; 146; 147.

Block: 3851 Lots: 131; 132; 133; 134; 135; 136; 137; 138; 139; 140.

Block: 3852 Lots: 1; 130; 131; 132; 133; 134; 135; 136; 137; 138.

Block: 3853 Lots: 1; 121; 122; 123; 124; 125; 126; 127; 128.

Block: 3854 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 12; 13.

Block: 3860 Lots: 1; 3; 4; 5; 6.

Block: 3861 Lots: 1; 6.

Block: 3862 Lots: 1; 23; 24; 25; 26.

Block: 3863 Lots: 1; 2; 4; 10; 15; 21; 22; 28; 29; 36; 38; 39; 40.

Block: 3864 Lots: 1; 2; 4; 6; 7; 8; 9; 13; 15; 16; 18; 50; 51; 52.

Block: 3865 Lots: 1; 6; 7; 9; 21; 24; 25; 26; 27; 35; 44; 45; 46; 47; 49; 53; 54; 55; 56; 57; 58; 59; 60; 128; 129; 130; 131; 132; 133; 134; 136; 137; 138; 139; 140; 141; 142; 150; 151.

Block: 3866 Lots: 1; 19; 64; 65; 66; 67; 68; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139.

Block: 3867 Lots: 127; 128; 129; 130; 131; 132; 133; 134; 135; 136.

Block: 3872 Lots: 75.

Block: 3873 Lots: 1; 19; 33; 34; 37; 38; 39; 40; 41; 42; 43; 44; 47; 48; 49; 50; 51; 52; 53.

Block: 3874 Lots: 1; 3; 4; 5; 6; 7; 8; 10; 12; 14; 15; 16; 17; 56; 57; 59.

Block: 3880 Lots: 51.

Block: 3881 Lots: 1; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 40; 60.

Block: 3882 Lots: 1; 6; 55.

Block: 3883 Lots: 1; 11; 16; 27; 38.

Block: 3947 Lots: 1.

Block: 3948 Lots: 35; 36; 37; 43; 134.

Block: 3949 Lots: 1; 42; 44; 45.

Block: 3950 Lots: 41; 43; 44; 46; 47.

Block: 3951 Lots: 42.

Block: 3952 Lots: 1; 42; 45; 47.

Block: 3953 Lots: 45; 51; 52.

Block: 3954 Lots: 45.

Block: 3955 Lots: 42; 44; 45; 46; 47; 48; 49; 52; 53; 54; 154.

Block: 3956 Lots: 1; 19; 21; 23; 24; 25; 28.

Block: 3957 Lots: 42; 45; 49; 53.

Block: 3958 Lots: 49.

Block: 3959 Lots: 52; 54.

Block: 3960 Lots: 58; 65; 68; 69; 70; 71; 72.

Block: 3961 Lots: 1; 3; 5; 7; 9; 10; 11; 12; 15; 16; 18; 20; 21; 22; 23; 24; 26; 27; 29; 30; 31; 32; 33; 113.

Block: 3962 Lots: 1; 2; 4; 5; 6; 8; 9; 30; 31; 32; 33; 34.

Block: 3963 Lots: 1; 2; 3; 5; 6; 7; 8; 14; 15; 16; 18; 20; 21; 22; 23; 24; 26; 29; 30; 31; 32; 33.

Block: 3964 Lots: 8.

Block: 3965 Lots: 11.

Block: 3966 Lots: 12; 13; 14; 15; 16; 19.

Block: 3967 Lots: 13; 15; 19; 20; 21; 22; 24; 25.

Block: 3968 Lots: 3; 5.

Block: 3969 Lots: 16; 20; 22; 25.

Block: 3971 Lots: 16; 17; 19; 21; 24; 25; 26.

Block: 3972 Lots: 17; 18; 20; 22.

Block: 3973 Lots: 22; 24; 38.

Block: 3976 Lots: 24; 27; 31; 35; 43; 45; 46; 47.

Block: 3977 Lots: 10; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21.

Block: 3978 Lots: 14; 15; 19; 20; 21; 22; 23; 24; 25.

Block: 3979 Lots: 11; 12; 13; 15; 16; 17; 18; 19.

Block: 4075 Lots: 44; 140.

Block: 4079 Lots: 6; 7; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59.

Block: 4080 Lots: 1; 2; 3; 4; 5; 6; 7; 46; 47; 48; 49; 50; 51.

Block: 4087 Lots: 47.

Block: 4088 Lots: 1; 2; 3; 4; 35; 36; 37; 38; 39; 41; 51; 52.

Block: 4089 Lots: 1; 2; 3; 4; 5; 12; 13; 21; 22; 24; 25; 30; 31; 32; 33; 34; 133.

Block: 4090 Lots: 1; 6.

Block: 4091 Lots: 1; 8; 9; 10; 11; 12; 13; 15; 16; 18; 19; 22.

Block: 4092 Lots: 1; 2; 3; 4; 10; 11; 13.

Block: 4093 Lots: 1.

Block: 4137 Lots: 1; 2; 39; 43; 44; 56; 63.

Block: 4139 Lots: 25; 29.

Block: 4140 Lots: 28.

Block: 4141 Lots: 1; 4; 27; 30; 33; 35; 39.

Block: 4142 Lots: 1; 32.

Block: 4143 Lots: 1.

Block: 4153 Lots: 27; 28; 29; 30; 31; 32; 33; 34; 40; 44; 46; 48.

Block: 4154 Lots: 28; 35; 45.

Block: 4294 Lots: 133.

Block: 4295 Lots: 129; 130.

Block: 4296 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9.

Block: 4297 Lots: 1; 2; 3; 4; 5; 10.

Block: 4298 Lots: 1; 6; 7.

Block: 4299 Lots: 1; 2; 5; 6; 7; 8; 10.

Block: 4300 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 11.

Block: 4301 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12.

Block: 4302 Lots: 1.

Block: 4303 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 108; 109.

Block: 4304 Lots: 1; 2; 3; 4; 5; 6; 7.

Block: 4305 Lots: 1; 8.

Block: 4306 Lots: 1; 2; 6; 7; 8; 9; 10.

Block: 4307 Lots: 1; 9; 22.

Block: 4310 Lots: 1; 2; 3; 5; 7; 8; 10.

Block: 4311 Lots: 1; 7.

Block: 4312 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10.

Block: 4313 Lots: 1; 6; 11; 12; 13; 14; 15; 16; 18; 19; 21; 23; 24; 25; 27; 29; 32; 34; 36; 38; 40; 41; 42; 43; 45; 47; 49; 51; 53; 55; 57; 59; 61; 62; 63; 65; 67; 68; 69; 70; 73; 74; 76; 78.

Block: 4314 Lots: 1; 6; 11; 13; 14; 16; 34; 54; 74.

Block: 4315 Lots: 1; 17; 23; 24; 26; 27; 29; 32; 34; 36; 38; 40; 52; 53; 56; 57; 58; 59; 61, 62, 63, 64, 65, 66, 67, 72, 76, 129, 136, 153.

Block: 4317 Lots: 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 33, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 49, 50, 51, 52, 53, 54, 56.

Block: 4318 Lots: 25, 26, 27; 28; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 42; 43; 44; 45; 46; 47; 48.

Block: 4334 Lots: 1; 6; 7; 57.

Block: 4335 Lots: 1; 11; 12; 14; 15; 30.

Block: 4336 Lots: 12; 13; 16; 58; 60; 101; 102; 103; 104; 105; 106; 107; 108; 109; 117; 118; 119; 120; 121; 122; 123; 124; 125; 126; 127; 128; 129; 130; 131; 132; 133; 134; 135; 136; 137; 138; 139.

Block: 4337 Lots: 1.

Block: 4338 Lots: 1; 24; 26; 28.

Block: 4339 Lots: 21; 23; 24; 25; 28; 41; 42; 45; 46; 48.

Block: 4340 Lots: 1; 8; 10; 15; 25.

Block: 4341 Lots: 1; 13; 24; 30; 40; 45.

Block: 4342 Lots: 1; 2; 5; 10; 14; 15; 16; 17; 18; 19; 20; 21; 22; 24; 26; 27; 28; 30; 36; 40; 46; 48; 50; 52; 58; 59.

Block: 4343 Lots: 1; 4; 5; 6; 7; 8; 10; 20; 30; 34; 47; 48; 49; 51; 52; 54; 55; 56; 57; 59.

Block: 4344 Lots: 1; 12; 16.

Block: 4345 Lots: 1.

Block: 4346 Lots: 6; 12; 23; 30; 46; 56.

Block: 4347 Lots: 1; 13; 15; 18; 30.

Block: 4348 Lots: 47; 48; 50; 51; 52; 55; 56; 57.

Block: 4359 Lots: 1; 6.

Block: 4360 Lots: 1; 9; 10.

Block: 4361 Lots: 1.

Block: 4362 Lots: 1.

Block: 4363 Lots: 1; 11; 17; 21; 25; 28; 31; 36; 37; 42; 45; 47; 52; 53; 55; 56.

Block: 4364 Lots: 1.

Block: 4365 Lots: 1; 7; 12; 100.

Block: 4366 Lots: 1.

Block: 4367 Lots: 1; 15.

Block: 4368 Lots: 1; 11; 16; 33; 35; 36; 40; 43; 44; 47; 52.

Block: 4383 Lots: 1; 3; 6; 8; 11; 20; 23; 31; 40; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51.

Block: 4384 Lots: 1; 17; 22; 25; 31; 36; 46; 51.

Block: 4385 Lots: 1; 9; 10; 11; 13; 20; 36; 60.

Block: 4386 Lots: 1.

Block: 4387 Lots: 1.

Block: 4388 Lots: 1; 28.

Block: 4389 Lots: 1.

Block: 4405 Lots: 1; 22; 28; 50.

Block: 4406 Lots: 1; 6; 21; 22.

Block: 4407 Lots: 1; 6; 15; 30; 52.

Block: 4408 Lots: 1.

Block: 4409 Lots: 1; 15; 20; 29; 33; 34; 35; 36; 37.

Block: 4410 Lots: 1; 18; 29.

Block: 4411 Lots: 1; 20; 24; 34.

Block: 4412 Lots: 1; 22; 29; 31.

Block: 4427 Lots: 1; 20.

Block: 4428 Lots: 1; 20.

Block: 4429 Lots: 1; 16; 29; 36.

Block: 4433 Lots: 30; 50.

Block: 4434 Lots: 1.

Block: 4452 Lots: 170; 400; 425; 460; 470; 480; 490; 500; 510; 520; 530; 550; 570.

Block: 4476 Lots: 22; 46; 48.

Block: 4477 Lots: 1.

Block: 4478 Lots: 24; 42; 43; 44; 45; 46; 47.

Block: 4479 Lots: 25; 26; 28; 42; 43; 44; 45; 46.

Block: 4480 Lots: 26; 27; 28; 42.

Block: 4481 Lots: 24; 26; 29; 41; 42; 43; 44; 45; 46; 47; 48.

Block: 4482 Lots: 18; 38.

Block: 4499 Lots: 1; 12; 14; 19; 26; 27; 28; 39; 45.

Block: 4500 Lots: 1; 6; 8; 9; 10; 13; 14; 15; 16; 17; 18; 19; 22; 24; 28; 30; 42; 46; 53; 57.

Block: 4501 Lots: 1; 2; 13; 14; 21; 22; 28; 30; 31; 32; 39; 43; 54; 55; 57.

Block: 4502 Lots: 1; 17; 18; 19; 20; 22; 23; 24; 25; 27; 45; 46; 47; 48; 49; 50; 51; 52.

Block: 4503 Lots: 1; 9; 13; 15; 24; 43; 44; 45; 46; 47; 48; 49; 50; 55.

Block: 4504 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 13; 14; 16; 17; 18; 19; 23; 33; 46; 62; 63; 64; 65; 66; 88; 107.

Block: 4521 Lots: 1; 5; 10; 11; 15; 19; 40; 47.

Block: 4522 Lots: 1; 12; 14; 16; 20; 31; 43; 48; 51; 57; 59.

Block: 4523 Lots: 3; 18; 22; 25.

Block: 4524 Lots: 1; 35.

Block: 4525 Lots: 1; 29.

Block: 4526 Lots: 1.

Block: 4541 Lots: 1; 5; 18; 23.

Block: 4542 Lots: 1; 3; 4; 11; 20.

Block: 4543 Lots: 1; 6; 18.

Block: 4544 Lots: 1.

Block: 4559 Lots: 1.

Block: 4560 Lots: 1.

Block: 4561 Lots: 1; 20; 38.

Block: 4562 Lots: 1; 22; 27.

Block: 4563 Lots: 6; 8; 12.

Block: 4564 Lots: 2; 10; 11; 13; 16; 77.

Block: 4586 Lots: 1.

Block: 4784 Lots: 6; 8; 9; 10; 11; 13; 14; 16; 18; 20; 21; 24; 26; 29; 30; 32; 35; 37; 39; 41; 44; 46; 48.

Block: 4785 Lots: 1; 6; 8; 11; 13; 14; 17; 18; 26; 30; 32; 34; 36; 38; 41; 44; 46; 49; 52; 55; 56; 58; 59; 61; 66; 70; 74; 77.

Block: 4786 Lots: 1; 3; 5; 14; 16; 22; 40; 43; 47; 50; 53; 55; 57; 59; 61; 63; 65; 66; 75; 76; 79; 80; 81; 82; 88; 120.

Block: 4988 Lots: 66.

Block: 5016 Lots: 1; 7; 11; 13; 35.

Block: 5017 Lots: 1; 4; 9; 13; 17; 19; 20; 24; 48; 50.

Block: 5018 Lots: 1; 3; 11; 28; 38; 44; 47; 50; 70.

Block: 5019 Lots: 1; 5; 14; 24; 40; 42; 44; 58; 70.

Block: 5022 Lots: 2; 6; 13; 40; 43; 46; 48; 50.

Block: 5023 Lots: 1; 2; 3; 4; 5; 6; 7; 9; 11; 14; 16; 18; 20; 22; 24; 33; 36; 37; 43; 46; 55; 59; 60.

Block: 7918 Lots: 1; 12; 22; 36; 41; 51; 58; 61; 66; 68; 72; 74; 76; 80; 86; 93; 111; 114; 126; 141; 145; 151; 171; 194.

Block: 7920 Lots: 1; 20; 25; 90; 96.

Block: 7924 Lots: 88; 93; 104; 107; 109; 110; 113; 115; 126; 138; 143; 145; 160; 172; 174; 175; 178; 182; 186.

Block: 7932 Lots: 1; 2; 3; 4; 6; 7; 8; 9; 10; 42; 43; 45; 48; 60; 64; 70; 75; 79; 82; 83; 84; 85; 88; 90; 93; 104; 109; 126; 131; 138; 140; 145; 151; 154; 157; 160; 162; 166; 169; 171; 174; 176; 178; 181; 183; 197; 199; 201; 203; 206; 207; 208; 210; 212; 215; 217; 219; 221; 222; 224; 226; 228; 229; 230; 232; 234; 236; 239; 241; 244; 246; 248; 254; 256; 266; 276; 277; 279; 281; 284; 295; 302; 309; 311; 317; 320; 325; 327; 329; 331; 336; 338; 364; 400; 508; 530; 532; 534; 536; 538; 540; 542; 544; 547; 548; 549; 551; 561.

Block: 7946 Lots: 1; 14; 40; 45; 46; 47; 76; 78.

Block: 7947 Lots: 1; 6; 10; 12; 13; 17; 19; 23; 25; 26; 28; 31; 37; 40; 43; 47; 49; 53; 55; 58; 61; 65.

Block: 7948 Lots: 1; 6; 8; 10; 11; 13; 22; 42; 48; 53; 57.

Block: 7949 Lots: 1; 8; 10; 17; 25; 33; 39; 48; 50; 58; 204; 214; 223; 230; 231; 232; 233; 234; 235; 236; 237; 238; 239; 260; 262; 263; 264; 265; 266; 267; 268; 270; 273; 277; 283; 295; 304.

Block: 7964 Lots: 58; 61.

Block: 7965 Lots: 33; 40; 41; 42; 50; 67; 81; 82; 84.

Block: 7966 Lots: 41; 46; 50.

Block: 7967 Lots: 35; 77.

Block: 7968 Lots: 30; 41; 43.

Block: 7969 Lots: 1; 9; 20; 23; 30; 60; 65; 66; 71; 75.

Block: 8115 Lots: 1; 6; 9; 10; 11; 53; 58; 59; 60.

Block: 8116 Lots: 1; 20; 24; 29; 30; 34; 37; 41; 42; 45.

Block: 8117 Lots: 7; 20; 26; 37; 40; 43.

Block: 8118 Lots: 1; 11; 20; 26; 27; 30; 35; 36; 41; 48; 53; 55.

Block: 8119 Lots: 1; 5; 20; 36; 41; 44; 47; 53; 54; 56; 68.

Block: 8120 Lots: 1; 18; 25; 26; 27; 28; 29; 32; 34; 48; 50; 53; 55.

Block: 8121 Lots: 1; 21; 27; 31; 38; 47; 49; 51; 54; 56; 57.

Block: 8122 Lots: 1; 11; 21; 25; 31; 34; 36; 40; 45; 47; 49; 51; 53.

Block: 8123 Lots: 22; 26; 40; 41; 42; 45; 47; 50.

Block: 8124 Lots: 1; 6; 7; 9; 11; 13; 15; 22; 24; 25; 27; 31; 33; 72; 75; 82; 85; 86; 88; 89; 90; 94; 95; 96; 97; 99; 102; 103; 104; 106; 119.

Block: 8125 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 17; 18; 19; 20; 21; 22; 23; 24; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 39; 41; 55; 58; 70; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; 84; 85; 86; 87; 90; 94; 96; 98; 100; 113; 118; 180.

Block: 8126 Lots: 1; 3; 5; 6; 7; 9; 10; 11; 13; 15; 17; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 43; 44; 45; 46; 48; 49; 50; 51; 52; 53; 54; 55; 56; 58; 63; 64; 68; 136; 139.

Block: 8127 Lots: 1; 2; 3; 4; 11; 14; 15; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 38; 39; 51; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 64; 66; 67; 68; 69; 72; 79; 80; 81; 82; 83; 84; 86; 118; 146; 147; 148; 149; 150; 151; 154; 155; 156; 158; 159; 161; 162; 163; 262.

Block: 8128 Lots: 1; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 22; 24; 26; 27; 31; 32; 41; 66; 76; 79; 82; 84.

Block: 8129 Lots: 1; 37; 47; 60.

Block: 8130 Lots: 1; 18; 37; 45; 46; 74; 80; 90.

Block: 8131 Lots: 1; 3; 5; 11; 13; 18; 20; 22; 23; 56; 59.

Block: 8132 Lots: 1; 4; 6; 9; 11; 16; 25; 28; 30; 64; 69.

Block: 8133 Lots: 1; 6; 11; 36; 45; 52; 64.

Block: 8134 Lots: 1; 301.

Block: 8141 Lots: 53.

Block: 8149 Lots: 1; 201; 300; 301; 400; 501.

Block: 8152 Lots: 1; 11; 13; 19; 40; 201; 300; 301; 9999.

Block: 8155 Lots: 41; 100; 101.

Block: 8156 Lots: 1; 24; 30; 40; 50; 100; 201; 9998; 9999.

Area 2:

Block: 4827 Lots: 1; 3; 8; 9; 10; 11; 12; 14; 24; 30; 39; 161.

Block: 4828 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 11; 13; 21; 22; 36; 37; 68; 71; 73; 74; 75; 544.

HISTORICAL NOTE

Section added L.L. 8/1987 § 1, effective 3/5/1987.

Subd. a amended L.L. 38/1993 § 1, eff. May 18, 1993.

Subd. a repealed and added L.L. 57/1988 § 3.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. a expanded [pars (1)-(4) added] L.L. 80/2003 § 7, eff. Dec. 22, 2003. [See footnote]

Subd. b amended L.L. 52/2003 § 11, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. b "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c amended L.L. 52/2003 § 11, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. d amended L.L. 52/2003 § 11, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. i added L.L. 80/2003 § 8, eff. Dec. 22, 2003.

Subd. j added L.L. 80/2003 § 8, eff. Dec. 22, 2003.

Subd. k added L.L. 45/2006 § 6, eff. Nov. 9, 2006. [See Note 1]

Subd. l added L.L. 45/2006 § 6, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 5. (a) By Local Law No. 8 for the year 1987, adopted on March 5, 1987, the council of the city of New York authorized an application for the designation of the East Brooklyn economic development zone relative to certain land within the borough of Brooklyn.

(b) The city of New York has received economic development zone approval from New York state.

(c) By Local Law No. 57 for the year 1988, adopted on August 19, 1988, the boundaries of the East Brooklyn economic development zone were revised.

(d) By Local Law No. 38 for the year 1993, adopted on May 18, 1993, the boundaries of the East Brooklyn economic development zone were revised a second time.

(e) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the East Brooklyn economic development zone is now known as the East Brooklyn empire zone.

(f) By Local Law No. 80 for the year 2003, adopted on December 22, 2003, the boundaries of the East Brooklyn empire zone were revised a third time.

(g) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the East Brooklyn empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(h) The East Brooklyn empire zone has been configured into two distinct and separate contiguous areas. Such areas are described by block and lot in subdivision l of section 22-704 of the administrative code of the city of New York, as added by section six of this local law.

(i) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Brooklyn as the East Brooklyn empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(j) Pursuant to article 18-B of the General Municipal Law, the East Brooklyn Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the East Brooklyn Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

26

[Footnote 26]: * § 7. The boundaries of the East Brooklyn empire zone, as described in subdivision a of section 22-704 of the administrative code of the city of New York, shall be expanded to include the properties generally described as follows:

(1) BEGINNING at the point of intersection of a point 50 feet to the north of Foster Avenue as measured from its northerly street line and the center line of East 108th Street; thence southerly along the center line of East 108th Street to the point where it meets the center line of Farragut Road, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-third, nineteen hundred ninety-seven, as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Farragut Road to the point where it meets the center line of East 99th Street, said line being the district boundary line between the M1-1 and R5 zoning districts and the M1-1 and C8-1 zoning districts as they appear on Sheet 17d as described aforesaid and on Sheet 23c of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six, as contained in the Zoning Resolution of the City of New York; thence northerly along the center line of East 99th Street to the point where it meets the center line of Foster Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 23c as described aforesaid; thence westerly along the center line of Foster Avenue to the point where it meets the center line of Rockaway Parkway, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 17d as described aforesaid; thence northerly along the center line of Rockaway Parkway to the point where it meets the center line of Ditmas Avenue; thence easterly along the center line of Ditmas Avenue to the point where it meets the center line of East 98th Street; thence northerly along the center line of East 98th Street to the point where it meets the center line of Thomas S. Boyland Street; thence northerly along the center line of Thomas S. Boyland Street to the point where it meets the center line of Linden Boulevard; thence easterly along the center line of Linden Boulevard to the point where it meets the prolongation of the center line of East 105th Street, said line being the district boundary line between the M1-1 and R5 zoning districts and the M3-1 and R6 zoning districts as they appear on Sheet 17d as described aforesaid; thence southerly along the center line of the prolongation of East 105th Street and the center line of East 105th Street to a point 50 feet to the north of Foster Avenue as measured from its northerly street line; thence easterly along a line 50 feet to the north of Foster Avenue and running parallel thereto to the point and place of beginning.

(2) BEGINNING at the point of intersection of the center line of Gateway Drive and a line 180 feet to the south of Fountain Street as measured from its southerly street line; thence easterly along a line 180 feet to the south of Fountain Street and running parallel thereto to the point where it meets the center line of Erskine Street, said line being the district boundary line between the C4-2 and R6 zoning districts as it appears on Sheet 17d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-third, nineteen hundred ninety-seven, as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Erskine Street to the point where it meets the center line of Gateway Drive, said line being the district boundary line between the C4-2 and R3-2 zoning districts as it appears on Sheet 17d as described aforesaid; thence westerly and thence northerly along the center line of Gateway Drive to the point and place of beginning.

(3) BEGINNING at the point of intersection of the center line of East 83rd Street and the main line set of tracks of the Bay Ridge Division of the Long Island Rail Road as they appear on Sheet 23a of the Zoning Map of the New York City Planning Commission as amended effective October thirty-first, two thousand one, as contained in the Zoning Resolution of the City of New York; thence northeasterly along said set of tracks to the point where it meets the center line of Remsen Avenue; thence southerly along the center line of Remsen Avenue to the point where it meets the southerly street line of Foster Avenue; thence westerly along the southerly street line of Foster Avenue to the point where it meets the center line of East 83rd Street; thence northerly along the center line of East 83rd Street to the point and place of beginning.

(4) BEGINNING at the point of intersection of the center line of Nostrand Avenue and the center line of Winthrop Street; thence easterly along the center line of Winthrop Street to the point where it meets the center line of New York Avenue; thence southerly along the center line of New York Avenue to a point 300 feet to the south of Clarkson Avenue as measured from its southerly street line; thence westerly along a line 300 feet to the south of Clarkson Avenue and running parallel thereto to the point where it meets the center line of Nostrand Avenue; thence northerly along the center line of Nostrand Avenue to the point and place of beginning.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-705

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-705 South Jamaica zone.

a. There is hereby established in the borough of Queens an empire zone as follows:

BEGINNING at the point of intersection of the center line of the Van Wyck Expressway easterly service road and the center line of Archer Avenue; thence northerly along the center line of the Van Wyck Expressway easterly service road to a point 100 feet to the north of Jamaica Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Jamaica Avenue and running parallel thereto to the point where it would meet the center line of 144th Place if the center line of 144th Place was extended north of Jamaica Avenue; thence southerly along the center line of 144th Place as extended to a point 100 feet to the south of Jamaica Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 138th Street; thence southerly along the center line of 138th Street to the point where it meets the center line

of 91st Avenue; thence easterly along the center line of 91st Avenue to the point where it meets the center line of 144th Place; thence northerly along the center line of 144th Place to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of Sutphin Boulevard; thence northerly along the center line of Sutphin Boulevard to the point where it meets the center line of 89th Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of 148th Street; thence southerly along the center line of 148th Street to the point where it meets the center line of 90th Avenue/Rufus King Avenue; thence easterly along the center line of 90th Avenue/Rufus King Avenue to the point where it meets the center line of 150th Street; thence southerly along the center line of 150th Street to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line

of Jamaica Avenue to the point where it meets the center line of 153rd Street, said line being the district boundary line between the R6 and C6-1A zoning districts as it appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective September twenty-eighth, nineteen hundred eighty-nine (A-1548), as contained in the Zoning Resolution of the City of New York; thence northerly along the center line of 153rd Street to the point where it meets the center line of Hillside Avenue; thence easterly along the center line of Hillside Avenue to the point where it meets the center line of Parsons Boulevard; thence southerly along the center line of Parsons Boulevard to the point where it meets the center line of 90th Avenue/Rufus King Avenue; thence easterly along the center line of 90th Avenue/Rufus King Avenue to the point where it meets the center line of 161st Street; thence northerly along the center line of 161st Street to the point where it meets the center line of 89th

Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of 163rd Street; thence northerly along the center line of 163rd Street to the point where it meets the center line of Hillside Avenue; thence easterly along the center line of Hillside Avenue to the point where it meets the center line of 164th Street; thence southerly along the center line of 164th Street to the point where it meets the center line of 89th Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of Merrick Boulevard; thence southerly along the center line of Merrick Boulevard to the point where it meets the center line of 90th Avenue; thence easterly along the center line of 90th Avenue to the point where it meets the center line of 169th Street; thence southerly along the center line of 169th Street to the point where it meets the center line of 91st Avenue; thence westerly along the center line of 91st Avenue to the point where it meets

the center line of 168th Street; thence southerly along the center line of 168th Street to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of 168th Place; thence southerly along the center line of 168th Place to the point where it meets the center line of 93rd Avenue; thence easterly along the center line of 93rd Avenue to the point where it meets the center line of 177th Street; thence northerly along the center line of 177th Street and its prolongation to a point 150 feet to the north of Jamaica Avenue as measured from its northerly street line; thence westerly along a line 150 feet to the north of the northerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 169th Street; thence northerly along the center line of 169th Street to the point where it meets the center line of 91st Avenue; thence westerly along the center line of 91st Avenue

to the point where it meets the center line of 168th Street; thence southerly along the center line of 168th Street to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of 168th Place; thence southerly along the center line of 168th Place to a point 150 feet to the south of Jamaica Avenue as measured from its southerly street line; thence westerly along a line 150 feet to the south of the southerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 177th Street; thence northerly along the center line of 177th Street and its prolongation to a point 150 feet to the north of Jamaica Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of the northerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 187th Place; thence southerly along the center

line of 187th Place to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of Hollis Avenue; thence southeasterly along the center line of Hollis Avenue to the point where it meets the main line set of tracks of the Long Island Railroad as such set of tracks appears on Sheet 15b of the Zoning Map of the New York City Planning Commission as amended effective January twenty-sixth, nineteen hundred eighty-nine (A-1518), as contained in the Zoning Resolution of the City of New York, said line being the district boundary line between the M1-1 and the R5 zoning districts as it appears on Sheet 15b as described aforesaid; thence westerly along the center line of the Long Island Railroad main line set of tracks to the point where it meets the most easterly track of the Long Island Railroad Montauk Division set of tracks as such Montauk Division tracks appear on Sheet 14d as described aforesaid; thence

southeasterly along the most easterly track of such Montauk Division set of tracks to the point where it meets the

center line of Liberty Street; thence southeasterly along the center line of Liberty Street to the point where it meets the center line of Dunkirk Street; thence southerly along the center line of Dunkirk Street to the point where it meets the center line of Ilion Avenue, said line being the district boundary line between the M1-1 and the R2 zoning districts as it appears on Sheet 15b as described aforesaid; thence westerly along the center line of Ilion Avenue to a point 150 feet to the west of Dunkirk Street as measured from its westerly street line; thence northerly along a line 150 feet to the west of the westerly street line of Dunkirk Street and running parallel thereto to a point 150 feet to the south of Liberty Avenue as measured from its southerly street line; thence northwesterly along a line 150 feet to the south of the southerly street line of Liberty Avenue and running parallel

thereto to the point where it meets the most easterly track of the Long Island Rail Road Montauk Division set of tracks as such Montauk Division set of tracks appears on Sheet 14d as described aforesaid; thence southeasterly along the most easterly track of such Montauk Division set of tracks to the point where it meets the center line of 110th Avenue; thence westerly along the center line of 110th Avenue to the point where it meets the center line of 178th Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 15b as described aforesaid; thence northwesterly along the center line of 178th Street to the point where it meets the center line of Ruscoe Street, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheets 15b and 14d as described aforesaid; thence northwesterly along the center line of Ruscoe Street to the point where it meets the center line of 106th Road; thence easterly along the center

line of 106th Road to the point where it meets the center line of 180th Street; thence northerly along the center line of 180th Street to the point where it meets the center line of the block bounded on the south by 105th Avenue and on the north by 104th Avenue; thence westerly along the center line of such block to a point 150 feet to the east of the easterly street line of 177th Street, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence northerly along a line 150 feet to the east of the easterly street line of 177th Street and running parallel thereto to the point where it meets the center line of 104th Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence westerly along the center line of 104th Avenue to the point where it meets the center line of 177th Street, said line being the district boundary line

between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 177th Street to the point where it meets the center line of the block bounded on the south by 103rd Road and on the north by Liberty Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence westerly along the center line of such block to the point where it meets the center line of 173rd Street, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 173rd Street to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point 150 feet to the east of Merrick Boulevard as measured from its easterly street line; thence southerly along a line 150 feet to the east of the easterly street line of Merrick

Boulevard and running parallel thereto to the point where it meets the center line of 108th Avenue; thence westerly along the center line of 108th Avenue to the point where it meets the center line of 165th Street; thence northerly along the center line of 165th Street to the point where it meets the center line of South Road; thence southwesterly along the center line of South Road to the point where it meets the center line of Guy Brewer Boulevard; thence northerly along the center line of Guy Brewer Boulevard to the point where it meets the center line of Liberty Avenue; thence easterly along the center line of Liberty Avenue to the point where it meets the center line of 165th Street; thence northerly along the center line of 165th Street to the point where it meets the center line of Archer Avenue/93rd Avenue; thence westerly along the center line of Archer Avenue/93rd Avenue to the point where it meets the center line of 150th Street; thence southerly along the center line of 150th Street to the point

where it meets the center line of the main line set of tracks of the Long Island Railroad as such set of tracks appears on Sheet 14d as described aforesaid; thence westerly along the center line of such main line set of tracks to the point

where it meets the easterly street line of Sutphin Boulevard; thence southerly along the easterly street line of Sutphin Boulevard to the point where it meets the center line of 94th Avenue; thence easterly along the center line of 94th Avenue to the point where it meets the center line of Beaver Road; thence northeasterly along the center line of Beaver Road to the point where it meets the center line of 158th Street; thence southeasterly along the center line of 158th Street to the point where it meets the center line of Liberty Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 14d as described aforesaid; thence easterly along the center line of Liberty Avenue to the point where it meets the center line of

160th Street; thence southerly along the center line of 160th Street to the point where it meets the center line of South Road; thence westerly along the center line of South Road to the point where it meets the center line of the Long Island Railroad Old Southern Division set of tracks as such tracks appear on Sheet 14d as described aforesaid; thence southerly along the center line of the Long Island Railroad Old Southern Division set of tracks to the point where it meets the center line of 107th Avenue; thence westerly along the center line of 107th Avenue to the point where it meets the center line of Sutphin Boulevard; thence northeasterly along the center line of Sutphin Boulevard to the point where it meets the center line of 97th Avenue; thence westerly along the center line of 97th Avenue to the point where it meets the center line of Waltham Street; thence northerly along the center line of Waltham Street to the point where it meets the center line of Atlantic Avenue; thence westerly along the

center line of Atlantic Avenue to the point where it meets the center line of Liverpool Street; thence northerly along the center line of Liverpool Street and its prolongation to a point approximately 250 feet to the north of 94th Avenue as measured from its northerly street line, said point being the point where the center line of Liverpool Street would meet the center line of the most southerly set of tracks of the Long Island Railroad as such set of tracks appear on Sheet 14d as described aforesaid if the Liverpool Street center line were extended beyond 94th Avenue; thence easterly along the center line of such set of tracks to the point where it meets the westerly street line of Sutphin Boulevard; thence northerly along the westerly street line of Sutphin Boulevard to the point where it meets the center line of the Long Island Railroad main line set of tracks as such tracks appear on Sheet 14d as described aforesaid; thence westerly along the center line of such tracks to the point where such line would

meet the center line of 144th Place if the center line of 144th Place were extended beyond Archer Avenue to the center line of such set of tracks; thence northerly along the center line of 144th Place as extended to the point where it meets the center line of Archer Avenue; thence westerly along the center line of Archer Avenue to the point and place of beginning.

b. The president of the economic development corporation shall be the administrator of the South Jamaica empire zone.

c. The administrative board of the South Jamaica empire zone shall be comprised of:

1. the commissioner of the department of small business services;

2. the president of the economic development corporation;

3. the commissioner of social services;

4. the commissioner of the department of housing preservation and development;

5. the member or members of the city council whose districts include the South Jamaica zone;

6. a member appointed by the president of the borough of Queens. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the borough president;

7. a representative of the local chamber of commerce or like group appointed by the mayor. Such member shall

serve for a term of two years from the date of appointment and shall be removable without cause by the mayor; and

8. a representative of a local community group appointed by the mayor. Such member shall serve for a term of two years from the date of appointment and shall be removable without cause by the mayor.

d. The commissioner of the department of small business services shall be the chairperson of the board. The administrative board shall choose at its first meeting one of its members who shall be treasurer and may appoint a secretary.

e. A majority of the members shall constitute a quorum of such board.

f. Whenever any act is authorized to be done or any determination or decision made by the board, the act, determination or decisions of the majority of the board shall be held to be the act, determination or decision of the board.

g. Members of the board shall serve as such without compensation but shall be reimbursed for actual and necessary out-of-pocket expenses in connection with attendance at regularly scheduled meetings of the board.

h. The board shall meet at least four times each year.

i. Upon approval by the commissioner of the New York State department of economic development of the request to revise the boundaries of the South Jamaica empire zone, the boundaries of the zone set forth in subdivision a of this section shall be superseded by the boundaries of the zone set forth in subdivision j of this section.

j. There is hereby established in the borough of Queens an empire zone as follows:

BEGINNING at the point of intersection of the center line of the Van Wyck Expressway easterly service road and the center line of Archer Avenue; thence northerly along the center line of the Van Wyck Expressway easterly service road to a point 100 feet to the north of Jamaica Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Jamaica Avenue and running parallel thereto to a point 100 feet to the west of Sutphin Boulevard as measured from its westerly street line; thence northerly along a line 100 feet to the west of the westerly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of Hillside Avenue, said line being the district boundary line between the R6 and C4-2 zoning districts as it appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six (A-1714), as contained in

the Zoning Resolution of the City of New York; thence easterly along the center line of Hillside Avenue to a point 100 feet to the east of Sutphin Boulevard as measured from its easterly street line, said line being the district boundary line between the R6 and C4-2 zoning districts as it appears on Sheet 14d as described aforesaid; thence southerly along a line 100 feet to the east of the easterly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of 88th Avenue; thence westerly along the center line of 88th Avenue to the point where it meets the center line of Sutphin Boulevard; thence southerly along the center line of Sutphin Boulevard to the point where it meets the center line of 89th Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of 148th Street; thence southerly along the center line of 148th Street to the point where it meets the center line of 90th Avenue/Rufus King Avenue; thence

easterly along the center line of 90th Avenue/Rufus King Avenue to the point where it meets the center line of 150th Street; thence southerly along the center line of 150th Street to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of 153rd Street, said line being the district boundary line between the R6 and C6-1A zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 153rd Street to the point where it meets the center line of Hillside Avenue; thence easterly along the center line of Hillside Avenue to the point where it meets the center line of

Parsons Boulevard; thence southerly along the center line of Parsons Boulevard to the point where it meets the center line of 90th Avenue/Rufus King Avenue; thence easterly along the center line of 90th Avenue/Rufus King Avenue to the point where it meets the center line of 161st Street; thence

northerly along the center line of 161st Street to the point where it meets the center line of 89th Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of 163rd Street, said line being the district boundary line between the C4-2 and R6 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 163rd Street to the point where it meets the center line of Hillside Avenue; thence easterly along the center line of Hillside Avenue to the point where it meets the center line of 164th Street, said line being the district boundary line between the R5 and R6 zoning districts and the C4-2 and R6 zoning districts as they appear on Sheet 14d as described aforesaid; thence southerly along the center line of 164th Street to the point where it meets the center line of 89th Avenue; thence easterly along the center line of 89th Avenue to the point where it meets the center line of Merrick Boulevard; thence southerly along

the center line of Merrick Boulevard to the point where it meets the center line of 90th Avenue; thence easterly along the center line of 90th Avenue to the point where it meets the center line of 169th Street; thence southerly along the center line of 169th Street to a point 150 feet to the north of Jamaica Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of the northerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 187th Place; thence southerly along the center line of 187th Place to the point where it meets the center line of Jamaica Avenue; thence easterly along the center line of Jamaica Avenue to the point where it meets the center line of Hollis Avenue; thence southeasterly along the center line of Hollis Avenue to the point where it meets the main line set of tracks of the Long Island Railroad as such set of tracks appears on Sheet 15b of the Zoning Map of the New York City Planning

Commission as amended effective November twenty-sixth nineteen hundred ninety-six (A-1724), as contained in the Zoning Resolution of the City of New York, said line being the district boundary line between the M1-1 and the R5 zoning districts as it appears on Sheet 15b as described aforesaid; thence westerly along the center line of the Long Island Railroad main line set of tracks to the point where it meets the most easterly track of the Long Island Railroad Montauk Division set of tracks as such Montauk Division tracks appear on Sheet 14d as described aforesaid; thence southeasterly along the most easterly track of such Montauk Division set of tracks to the point where it meets the center line of Liberty Avenue; thence southeasterly along the center line of Liberty Avenue to the point where it meets the center line of Dunkirk Street; thence southerly along the center line of Dunkirk Street to the point where it meets the center line of Ilion Avenue, said line being the district boundary line between the

M1-1 and the R2 zoning districts as it appears on Sheet 15b as described aforesaid; thence westerly along the center line of Ilion Avenue and its prolongation to a point 150 feet to the west of Dunkirk Street as measured from its westerly street line; thence northerly along a line 150 feet to the west of the westerly street line of Dunkirk Street and running parallel thereto to a point 150 feet to the south of Liberty Avenue as measured from its southerly street line; thence northwesterly along a line 150 feet to the south of the southerly street line of Liberty Avenue and running parallel thereto to the point where it meets the most westerly track of the Long Island Rail Road Montauk Division set of tracks as such Montauk Division set of tracks appears on Sheets 14d and 15b as described aforesaid; thence southeasterly along the most westerly track of such Montauk Division set of tracks to the point where it meets the center line of 110th Avenue/Brinkerhoff Avenue; thence westerly along the center line of

110th Avenue/Brinkerhoff Avenue to the point where it meets the center line of 178th Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 15b as described aforesaid; thence northwesterly along the center line of 178th Street to the point where it meets the center line of Ruscoe Street, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheets 15b and 14d as described aforesaid; thence northwesterly along the center line of Ruscoe Street to the point where it meets the center line of 106th Road; thence easterly along the center line of 106th Road to the point where it meets the center line of 180th Street; thence northerly along the center line of 180th Street to the point where it meets the center line of the

block bounded on the south by 105th Avenue and on the north by 104th Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on

Sheets 15b and 14d as described aforesaid; thence westerly along the center line of such block to a point 150 feet to the east of the easterly street line of 177th Street, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence northerly along a line 150 feet to the east of the easterly street line of 177th Street and running parallel thereto to the point where it meets the center line of 104th Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence westerly along the center line of 104th Avenue to the point where it meets the center line of 177th Street, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 177th Street to the point where it meets the center line of the block bounded on the south

by 103rd Road and on the north by Liberty Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence westerly along the center line of such block to the point where it meets the center line of 173rd Street, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along the center line of 173rd Street to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point 150 feet to the east of Merrick Boulevard as measured from its easterly street line, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence southerly along a line 150 feet to the east of the easterly street line of Merrick Boulevard and running parallel thereto to the point where it meets the center line of

108th Avenue; thence westerly along the center line of 108th Avenue to the point where it meets the center line of 165th Street; thence northerly along the center line of 165th Street to the point where it meets the center line of South Road; thence southwesterly and thence westerly along the center line of South Road to the point where it meets the center line of the Long Island Railroad Old Southern Division set of tracks as such tracks appear on Sheet 14d as described aforesaid; thence southerly along the center line of the Long Island Railroad Old Southern Division set of tracks to the point where it meets the center line of 107th Avenue, said line being the district boundary line between the M1-1 and R4 zoning districts as said line appears on Sheet 14d as described aforesaid; thence westerly along the center line of 107th Avenue to the point where it meets the center line of Sutphin Boulevard; thence northeasterly along the center line of Sutphin Boulevard to the point where it meets the center line of

South Road, said line being the district boundary line between the R6 and R4 zoning districts as it appears on Sheet 14d as described aforesaid; thence southwesterly along the center line of South Road to a point 100 feet to the west of Sutphin Boulevard as measured from its westerly street line; thence northwesterly along a line 100 feet to the west of the westerly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of Liberty Avenue; thence southwesterly along the center line of Liberty Avenue to the point where it meets the center line of 101st Avenue; thence westerly along the center line of 101st Avenue to a point 100 feet to the west of Sutphin Boulevard as measured from its westerly street line; thence northerly along a line 100 feet to the west of the westerly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of 97th Avenue, said line being the district boundary line between the R5 and M1-1

zoning districts as it appears on Sheet 14d as described aforesaid; thence westerly along the center line of 97th Avenue to the point where it meets the center line of Waltham Street; thence northerly along the center line of Waltham Street to the point where it meets the center line of Atlantic Avenue; thence westerly along the center line of Atlantic Avenue to the point where it meets the center line of the Van Wyck Expressway easterly service road; thence northerly along the center line of the Van Wyck Expressway easterly service road to the point and place of beginning.

The following areas shall not be included in the empire zone:

(1) BEGINNING at the point of intersection of the center line of 91st Avenue and the center line of 138th Street; thence northerly along the center line of 138th Street to a point 100 feet to the south of Jamaica Avenue as measured from its southerly street line; thence easterly along a line 100 feet to the south of the southerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 144th Place, said line being the district boundary line between the R5 and R6 zoning districts as it appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six (A-1714), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of 144th Place to the point where it meets the center line of 91st Avenue; thence westerly along the center line of 91st Avenue to the point and place of beginning.

(2) BEGINNING at the point of intersection of the center line of 93rd Avenue and the center line of 168th Place; thence northerly along the center line of 168th Place to a point 150 feet to the south of Jamaica Avenue as measured from its southerly street line, said line being the district boundary line between the M1-5 and R6 zoning districts as it appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six (A-1714), as contained in the Zoning Resolution of the City of New York; thence easterly along a line 150 feet to the south of the southerly street line of Jamaica Avenue and running parallel thereto to the point where it meets the center line of 177th Street; thence southerly along the center line of 177th Street to the point where it meets the center line of 93rd Avenue, said line being the district boundary line between the R6 and M1-1 districts as it appears on Sheet 14d as described aforesaid; thence westerly along the center line of 93rd Avenue to the point and place of beginning.

(3) BEGINNING at the point of intersection of the center line of the main line set of tracks of the Long Island Railroad as such set of tracks appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth, nineteen hundred ninety-six (A-1714), as contained in the Zoning Resolution of the City of New York and the center line of 150th Street; thence northerly along the center line of 150th Street to the point where it meets the center line of Archer Avenue; thence easterly along the center line of Archer Avenue to the point where it meets the center line of a block bounded by Guy R. Brewer Boulevard on the west and 165th Street on the east, said line being the district boundary line between the R6 and C6-1A zoning districts as it appears on Sheet 14d as described aforesaid; thence southerly along the center line of such block to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to the point where it meets the center line of Guy R. Brewer Boulevard; thence southerly along the center line of Guy R. Brewer Boulevard to a point where it meets the center line of a block bounded on the north by Liberty Avenue and on the south by South Road; thence westerly along the center line of such block to the point where it meets the center line of 160th Street; thence northerly along the center line of 16th Street to the point where it meets the center line of the main line set of tracks of the Long Island Railroad as such set of tracks appears on Sheet 14d as described aforesaid; thence westerly along the center line of such main line set of tracks to the point and place of beginning.

(4) BEGINNING at the point of intersection of the center line of Liberty Avenue and the center line of Pedestrian Way, as such Pedestrian Way appears on Sheet 14d of the Zoning Map of the New York City Planning Commission as amended effective June twenty-fifth nineteen hundred ninety-six (A-1714), as contained in the Zoning Resolution of the City of New York; thence northerly along the center line of Pedestrian Way to a point 65 feet to the north of Liberty Avenue as measured from its northerly street line, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 14d as described aforesaid; thence westerly along a point 65 feet to the north of the northerly street line of Liberty Avenue to a point 120 feet to the west of Pedestrian Way as measured from its westerly street line, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 14d as described aforesaid; thence northerly along a line 120 feet to the west of the westerly street line of Pedestrian Way to a point 334.07 feet to the north of Liberty Avenue as measured from its northerly street line, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 14d as described aforesaid; thence easterly along a line 334.07 to the north of the northerly street line of Liberty Avenue to the point where it meets the center line of Pedestrian Way; thence northerly along the center line of Pedestrian Way to a

point 648.27 feet to the north of Liberty Avenue as measured from its northerly street line; thence westerly along a line 648.27 feet to the north of the northerly street line of Liberty Avenue to a point 401.69 feet to the west of Pedestrian Way as measured from its westerly street line, said line being the northern border of Prospect Cemetery; thence westerly 29.13 feet and thence further westerly 281.27 feet to the point where it meets the center line of 158th Street, said line being the northern boundary of Prospect Cemetery; thence southeasterly along the center line of 158th Street to the point where it meets the center line of Liberty Avenue; thence easterly along the center line of Liberty Avenue to the point and place of beginning, said line being the district boundary line between the M1-4 and R6 zoning districts as it appears on Sheet 14d as described aforesaid.

k. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision l of this section, the boundaries of the zone set forth in subdivision j of this section shall be superseded by subdivision l of this section.

l. There is hereby established in the borough of Queens an empire zone consisting of the following blocks and lots:

Area 1:

Block: 9282 Lots: 26.

Block: 9329 Lots: 1; 5; 6; 7; 8; 9; 10; 37; 41; 43; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 56; 58; 59; 60; 61; 67; 75; 88; 145; 167; 267.

Block: 9330 Lots: 1; 8; 10; 12; 14; 18; 33; 46; 55; 57; 59; 61; 65; 70; 75; 95.

Block: 9331 Lots: 30; 50; 60; 84; 91; 132.

Block: 9337 Lots: 15; 16; 17; 18; 19; 29; 30; 33; 34; 35; 37; 38; 40.

Block: 9338 Lots: 1; 45; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 66; 69; 79; 86; 95; 145; 147.

Block: 9339 Lots: 21; 23; 24; 26; 27; 28; 29; 31; 32; 33; 34.

Block: 9340 Lots: 101; 102; 103; 104; 110; 111; 112; 114; 116; 118; 120; 122; 124; 126; 128; 130; 132; 134; 136; 145; 147; 148; 149; 150; 152; 153; 154; 155; 157; 158; 159; 160; 161; 162; 163; 165; 166; 167; 169; 170; 216.

Block: 9341 Lots: 1; 5; 8; 9; 10; 12; 14; 16; 18; 20; 22; 24; 26; 28; 30; 33; 35; 42; 43; 45; 47; 49; 51; 53; 55; 57; 59; 61; 63.

Block: 9342 Lots: 1; 2; 3; 4; 5; 6; 7; 14; 18; 19; 21; 22; 23; 24; 32; 33; 35; 63; 65; 67; 69; 71; 73; 75; 77; 79; 81; 83; 85; 87; 156.

Block: 9354 Lots: 22; 23; 25; 42; 43.

Block: 9355 Lots: 8; 11; 13; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 28; 30; 31; 36; 124.

Block: 9356 Lots: 1; 6; 7; 8; 9; 10; 19; 25; 31; 33; 35.

Block: 9357 Lots: 1; 3; 5; 8; 12; 14; 17; 21; 28; 29; 33.

Block: 9358 Lots: 1; 2; 3; 4; 5; 14; 19; 21; 23; 29; 33; 38; 39; 46; 50; 102.

Block: 9359 Lots: 1; 3; 4; 5; 12; 14; 16; 18; 26; 27; 32; 34; 36; 37; 38; 39; 43; 44; 45; 46; 47; 48.

Block: 9361 Lots: 1; 8; 20; 21; 23; 25; 27; 29; 31; 33; 35; 37.

Block: 9362 Lots: 5; 6; 9; 11; 13; 15; 17; 19; 21; 23; 25; 27; 29; 31; 32; 33; 35; 37; 38; 39; 40; 42; 44; 46; 48; 50; 52; 54; 56; 58; 62; 139.

Block: 9363 Lots: 1; 3; 6; 8; 10; 12; 14; 16; 18; 20; 22; 24; 26; 28; 32; 33; 40; 42; 44; 46; 48; 50; 52; 54; 56; 58; 62; 65; 66; 132.

Block: 9364 Lots: 1; 10.

Block: 9375 Lots: 6; 7; 9; 11; 12; 13; 16; 18; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 36; 37; 39; 41; 43; 45; 47; 49; 50; 51; 52; 56; 58; 95; 112; 151; 153; 154; 155; 156; 157; 158; 159; 160; 161; 162; 163; 164; 165; 166; 167; 168; 169; 171; 174; 185; 200; 205; 210; 212; 215; 220; 231; 255; 261; 272; 285; 350; 351.

Block: 9441 Lots: 4; 5; 10; 17.

Block: 9444 Lots: 1; 3; 6; 16; 60.

Block: 9445 Lots: 1; 8.

Block: 9618 Lots: 30.

Block: 9619 Lots: 31; 33; 35; 36; 37.

Block: 9620 Lots: 33; 40.

Block: 9673 Lots: 1; 18; 19; 20; 21; 22; 23; 24; 25; 26.

Block: 9674 Lots: 1; 33; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46.

Block: 9675 Lots: 29; 30; 32; 33; 34; 35; 36; 37; 38.

Block: 9676 Lots: 7; 13; 22; 27; 30; 31; 32; 33; 34; 35; 37; 39; 40; 41; 42; 43; 44; 45.

Block: 9677 Lots: 1; 7; 16; 167; 172; 174; 176; 178; 180; 182; 184; 185; 186; 187; 188; 191; 284; 286; 291.

Block: 9678 Lots: 30; 32; 34; 36; 37; 42; 54; 94; 99; 104; 105; 106; 107; 109; 112; 155; 159; 206.

Block: 9679 Lots: 52; 57; 59; 63; 65; 66; 67; 77; 78; 80; 81; 82; 83; 84; 85; 86; 87; 88; 89; 200; 386.

Block: 9680 Lots: 1; 18.

Block: 9688 Lots: 6; 8; 9; 11; 13; 14; 17; 24.

Block: 9690 Lots: 6; 7; 9; 10; 13; 14; 17; 18.

Block: 9692 Lots: 45; 50; 51; 52; 54.

Block: 9753 Lots: 1; 3; 5; 6; 8; 9; 11; 13; 15; 20; 22; 26; 28; 29; 31; 32; 33; 34; 35; 36.

Block: 9754 Lots: 1; 7; 11; 25; 29; 34; 45; 46; 47; 48; 53; 54; 56; 57.

Block: 9755 Lots: 1; 6; 15; 31; 42; 48; 50; 59; 61.

Block: 9756 Lots: 1; 6; 18; 40; 54; 56; 58; 60.

Block: 9757 Lots: 1; 6; 7; 8; 10; 13; 15; 18; 20; 22; 23; 29; 35; 39; 40; 42; 44; 47; 48; 49.

Block: 9760 Lots: 1; 13; 18; 22; 25; 27; 31; 45; 61; 74; 79; 80; 81; 82; 87.

Block: 9761 Lots: 1; 10; 14; 18; 26; 27; 28; 30; 36; 48; 54; 55; 56; 57; 61; 66; 67; 68; 69; 70; 75; 80; 82; 83; 95.

Block: 9762 Lots: 1; 10; 12; 13; 14; 15; 16; 17; 19; 20; 21; 22; 23; 28; 35; 36; 37; 38; 39; 41; 49; 50; 52; 54; 56; 57; 58; 65; 70; 71; 72; 73.

Block: 9763 Lots: 1; 3; 5; 7; 9; 11; 13; 16; 17; 23; 25; 26; 27; 28; 29; 30; 31; 33; 35; 36; 37; 40; 42; 44; 45; 47; 51; 55.

Block: 9793 Lots: 1; 11; 14; 16; 29; 33; 49; 54; 56; 57; 59; 64; 69; 78; 86; 89; 90.

Block: 9794 Lots: 14; 16; 17; 18; 19; 20; 30; 36; 48; 114.

Block: 9795 Lots: 1; 3; 7; 9; 10; 11; 12; 30; 65; 85; 89; 94; 98; 101; 130.

Block: 9796 Lots: 1; 3; 5; 9; 10; 11; 12; 13; 14; 15; 19; 22; 25; 47; 53; 58; 59; 60; 61; 62; 63; 100.

Block: 9799 Lots: 1; 16; 18; 19; 22; 27; 35.

Block: 9800 Lots: 1; 5.

Block: 9802 Lots: 1; 2; 3; 5; 7; 8; 9; 10; 11; 12.

Block: 9804 Lots: 1; 2; 3; 5; 6; 7; 8; 10; 12.

Block: 9806 Lots: 1; 2; 4; 6; 7; 8; 10; 11.

Block: 9808 Lots: 1; 2; 6; 8; 9; 11; 12.

Block: 9809 Lots: 37; 38; 39; 40; 41; 42; 43; 44; 45; 47.

Block: 9811 Lots: 1; 3; 4; 5; 6; 7; 8; 9; 11; 12; 13; 14.

Block: 9812 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10.

Block: 9813 Lots: 1; 5; 8; 11; 14; 16; 18; 19; 21; 22; 24; 25; 27; 29; 30; 31; 32; 33; 52; 120.

Block: 9894 Lots: 1; 5; 6; 7; 8; 9; 10; 11; 94.

Block: 9895 Lots: 1; 6; 8; 9; 10.

Block: 9896 Lots: 1; 81; 82; 83; 84; 85.

Block: 9897 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10.

Block: 9898 Lots: 1; 117.

Block: 9900 Lots: 1; 6; 7; 8; 9; 10.

Block: 9902 Lots: 1; 96; 97; 98; 99; 100.

Block: 9903 Lots: 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 83; 84.

Block: 9905 Lots: 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 128.

Block: 9906 Lots: 38; 47.

Block: 9907 Lots: 39; 41; 43; 44; 45; 46; 49.

Block: 9908 Lots: 9; 10; 15; 16; 17; 18; 19.

Block: 9909 Lots: 1; 5.

Block: 9970 Lots: 12; 15; 16; 19; 21; 22; 23; 25; 27; 29; 34; 36; 38; 59; 60; 100; 121; 122; 159.

Block: 9972 Lots: 1; 17; 19; 22; 24; 26; 28; 29; 30; 33; 36.

Block: 9973 Lots: 1.

Block: 9974 Lots: 1; 2; 14; 15; 16; 17; 18; 20; 22; 25; 27; 29; 31; 32; 33; 35; 37; 39; 131.

Block: 9975 Lots: 1; 7; 15; 17; 19; 20; 22; 24; 25; 26; 27; 28; 29; 31; 33; 34; 35; 36; 37; 39; 40.

Block: 9976 Lots: 3; 4; 5; 11; 13; 14; 15; 17; 18; 19; 29; 30; 31; 32; 33; 34.

Block: 9977 Lots: 1; 3; 5; 7; 8; 9; 10; 12; 14; 16; 18; 20; 21; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 130; 132.

Block: 9978 Lots: 1; 6; 16; 18; 19; 20; 22; 23; 28; 29; 30; 32; 34; 38; 65.

Block: 9979 Lots: 1; 2; 3; 5; 6; 8; 9; 11; 12; 16; 17; 18; 19; 21; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40.

Block: 9980 Lots: 1.

Block: 9981 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 33; 35; 36; 107.

Block: 9982 Lots: 1; 2; 3; 4; 5; 6; 10; 11; 12; 13; 17; 22; 23; 27; 101; 103; 111.

Block: 9983 Lots: 1; 3; 4; 5; 9; 10; 12; 13; 14; 15; 16; 17; 19; 20; 22; 24; 26; 28; 30; 32; 33; 35; 36; 37; 38; 39; 40; 42; 44; 45; 46; 47; 48; 49; 50; 51; 52.

Block: 9984 Lots: 1; 3; 5; 7; 8; 10; 11; 17.

Block: 9985 Lots: 1; 4; 5; 6; 7; 9; 10; 11; 13; 20; 26; 27; 28; 29; 30; 32; 34; 36; 91; 95; 96; 112.

Block: 9986 Lots: 1; 2; 3; 20; 61; 70; 73; 75; 101.

Block: 9987 Lots: 1; 6; 7; 8; 9; 11; 12; 13; 15; 16; 18.

Block: 9988 Lots: 31; 32; 34; 35; 37; 38; 40; 42; 47.

Block: 9989 Lots: 11; 17; 60; 70; 90; 95.

Block: 9990 Lots: 5; 34; 37; 38; 39; 40; 41; 43; 45; 46.

Block: 9991 Lots: 1; 19; 61; 62; 63; 64; 68.

Block: 9992 Lots: 26; 27; 29; 32; 33; 34; 36; 38; 41; 43; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58.

Block: 9993 Lots: 1; 3; 18; 20; 22; 23; 24; 25; 27; 28; 29.

Block: 9994 Lots: 26; 28; 29; 30; 31; 38; 49; 50; 51; 52; 53; 54; 55; 56; 59; 60; 61.

Block: 9995 Lots: 1; 7; 14; 18.

Block: 9996 Lots: 1; 5; 9; 10; 12; 16.

Block: 9997 Lots: 1; 5; 6; 7; 8; 11; 13; 15; 20; 97; 104.

Block: 9998 Lots: 1; 2; 16; 19; 22; 25; 42; 43; 47; 48; 52; 65; 70; 83; 86; 87; 88; 89; 90; 91; 93; 94; 95; 101; 109; 110; 119; 124; 127; 144.

Block: 9999 Lots: 1; 9; 10; 11; 13; 15.

Block: 10000 Lots: 1; 3; 5; 14; 16; 24; 31; 38; 39; 40; 41; 42.

Block: 10001 Lots: 1; 19; 24; 25; 26; 27; 28; 29; 40; 41; 124.

Block: 10002 Lots: 1; 5; 10; 13; 15; 17; 20; 21; 22; 23; 24; 25; 122.

Block: 10026 Lots: 1; 6; 7; 8; 9; 10; 12; 14; 23; 27; 29; 31; 33; 34; 39.

Block: 10027 Lots: 1; 3; 5; 8; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 129; 130; 132.

Block: 10028 Lots: 1; 2; 4; 6; 7; 10; 11; 13; 14; 15; 16; 17; 18; 20; 21; 22; 23; 24; 25; 26; 28; 30; 31; 32; 33; 34; 35.

Block: 10030 Lots: 6; 12; 15; 17; 22; 25.

Block: 10031 Lots: 2; 7; 10; 12; 14; 15; 17; 20; 25; 29.

Block: 10032 Lots: 1; 2; 3; 4; 5; 6; 8; 9; 11; 12; 13; 15; 16; 17; 18; 21; 22; 28; 29; 30; 31; 32; 33; 112; 130.

Block: 10033 Lots: 1; 3; 6; 7; 8; 10; 12; 13; 14; 16; 18; 20; 28; 29; 33; 34; 40; 41; 42; 43; 44.

Block: 10055 Lots: 7; 11; 14; 16; 17; 19; 20; 21; 23; 24; 118.

Block: 10056 Lots: 7; 8; 12; 17; 19; 20; 21; 22.

Block: 10057 Lots: 6; 8; 9; 10; 12; 14; 16; 21; 23.

Block: 10058 Lots: 1; 7; 10; 11; 12; 16; 21.

Block: 10059 Lots: 1; 4; 5; 6; 7; 10; 11; 12; 15; 16; 23; 24; 25; 26; 27; 28; 30; 31; 32; 33; 34; 131; 132.

Block: 10060 Lots: 1; 2; 6; 7; 8; 9; 10; 11; 12; 13; 16; 17; 18; 25; 28; 30; 112; 113; 212; 312.

Block: 10061 Lots: 1; 2; 3; 4; 5; 6; 8; 12; 14; 16; 19; 20; 26; 27; 32; 33; 34; 35; 36; 38; 105; 131.

Block: 10062 Lots: 3; 4; 6; 9; 10; 11; 12; 13; 14; 15; 17; 19; 20; 22; 23; 24; 26; 27.

Block: 10088 Lots: 13; 14; 15; 16; 17; 18; 19; 20; 22; 23; 24; 25; 26; 27; 29; 113; 117.

Block: 10089 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 11; 12; 13; 15; 16; 17; 18; 19; 20; 21.

Block: 10092 Lots: 1; 6.

Block: 10093 Lots: 1.

Block: 10094 Lots: 20; 41; 42; 43; 55; 73; 83; 97.

Block: 10095 Lots: 32; 43; 49; 51; 58; 71.

Block: 10097 Lots: 10; 20.

Block: 10098 Lots: 1.

Block: 10099 Lots: 1; 36; 52; 80; 102.

Block: 10100 Lots: 1.

Block: 10101 Lots: 1; 3; 7; 9; 11; 15; 24; 27; 79; 90; 150.

Block: 10102 Lots: 1; 2; 4; 10; 18; 19; 22; 24; 25; 80.

Block: 10103 Lots: 1; 16.

Block: 10104 Lots: 33; 35; 43; 78.

Block: 10106 Lots: 29; 30; 119; 120; 128.

Block: 10107 Lots: 63; 66; 67; 68; 69; 70; 71; 73; 74; 75; 76; 77; 79; 81; 82; 84; 86; 90; 99; 101; 106; 107; 130; 132; 138; 142; 155; 157; 167.

Block: 10108 Lots: 301; 305; 312; 314; 316; 319; 321; 330; 333; 348.

Block: 10109 Lots: 2; 3; 9; 15; 20; 25; 31; 44; 102; 105; 107; 108; 110; 111.

Block: 10110 Lots: 4; 5; 6; 10; 12; 15; 19; 50; 58; 60.

Block: 10111 Lots: 201.

Block: 10112 Lots: 1; 9; 10; 11; 12; 13; 18; 20; 21; 23; 24; 26; 31; 35; 37; 39; 42; 58; 59; 60; 61; 62; 63; 64; 66; 67; 68; 70; 71; 110; 111; 161.

Block: 10113 Lots: 71; 89; 94; 103; 109.

Block: 10114 Lots: 1; 7; 10; 17; 32; 33; 34; 60; 66; 67; 68; 69.

Block: 10115 Lots: 45; 47; 48; 53; 91; 95.

Block: 10116 Lots: 9; 26.

Block: 10117 Lots: 25; 26; 36.

Block: 10118 Lots: 34.

Block: 10119 Lots: 28.

Block: 10120 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 15; 16; 20; 23; 24; 25; 31; 39; 40.

Block: 10121 Lots: 57; 58; 67; 68; 69; 70; 71; 73; 74; 75; 77; 78; 79; 80; 81; 90; 91; 92; 93; 94; 100; 101; 102; 103; 105.

Block: 10122 Lots: 1; 18; 20; 22; 25; 27; 28; 29; 31; 33; 35; 36; 37; 39; 40; 43; 45; 46.

Block: 10123 Lots: 1; 3; 4; 5; 7; 9; 12; 15; 16; 17; 18; 19; 21; 22; 23; 24; 25; 26; 27; 28; 29; 34; 35; 37; 38; 39; 40; 41; 43; 44; 45; 46; 112; 113; 114; 129; 130; 131.

Block: 10124 Lots: 1; 3; 4; 5; 6; 7; 8; 10; 11; 15; 18; 19; 20; 21; 25; 30; 32; 35; 36; 38; 39; 40; 41; 42; 43; 44; 47; 49; 52; 144; 145.

Block: 10125 Lots: 1; 136; 147.

Block: 10151 Lots: 1; 7; 12; 13; 14; 15; 16; 19; 21; 23; 24; 25; 31; 32; 39; 65; 75; 113; 116.

Block: 10152 Lots: 54; 58; 66; 163; 195.

Block: 10154 Lots: 91.

Block: 10155 Lots: 1; 4; 8; 9; 10; 11; 12; 16; 20; 22; 24; 29; 35; 42; 49; 52; 54; 56; 58; 61; 63; 68; 69; 87; 88; 89; 90; 91; 93; 94; 105; 121; 123; 210.

Block: 10156 Lots: 1; 5; 6; 7; 9; 11; 14; 17; 22; 31; 40; 50; 61; 106; 110; 111; 113; 115; 116; 134; 136; 146; 148; 149; 158; 159; 160.

Block: 10157 Lots: 62; 66; 67; 69; 70; 72; 74; 89; 94; 96; 98; 99; 103; 105; 156; 157; 169; 205.

Block: 10158 Lots: 1.

Block: 10159 Lots: 3; 54.

Block: 10160 Lots: 1.

Block: 10164 Lots: 3; 5; 6; 7; 8; 9; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 23; 24; 26; 27; 28; 29; 30; 31; 32; 34; 38; 39; 41; 46; 53; 60; 61; 63; 66; 68; 72; 74; 76; 79; 80; 84; 89; 90; 95; 97; 103.

Block: 10169 Lots: 1; 8; 10; 11; 12; 13; 14; 15; 16; 18; 19; 20; 21; 23; 25; 26; 27; 86; 87; 89; 90; 92; 94; 100; 102; 103; 112; 114; 120; 225; 226; 227.

Block: 10170 Lots: 23; 50; 60; 62; 64; 65; 66; 67; 74; 132; 133; 134; 135; 136; 137; 138; 139; 140; 141; 142.

Block: 10209 Lots: 2; 8; 9; 10; 11; 12; 13; 14; 86; 115; 201; 202; 203; 204; 205; 206; 207; 208; 209; 210; 211; 212; 213; 214; 215; 216; 217; 218.

Block: 10210 Lots: 21; 22; 26; 27; 29; 30; 31; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 140; 141; 142; 145; 146; 147; 148; 231; 232; 233; 235; 236; 237; 238; 239; 240; 241; 242; 244; 245; 246; 247; 248; 249; 341.

Block: 10211 Lots: 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 63; 64; 66; 68; 69; 70; 74; 75; 76; 77; 78; 252; 253; 254; 255; 256; 257; 258; 259; 260; 261; 262; 263; 264; 265; 266; 267; 268; 269; 270; 271; 272.

Block: 10212 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 28; 31; 32; 33; 37; 39; 41; 44; 45; 46; 48; 51; 53; 55; 64; 156.

Block: 10213 Lots: 1; 5; 7; 10; 11; 12; 13; 14; 18; 19; 20; 22; 24; 26; 28; 30; 31; 32; 33; 34; 35; 36; 37; 39; 40; 47; 49; 51; 52; 53; 54; 55; 57; 60; 63; 64; 65; 66; 68; 110; 112; 163.

Block: 10214 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 14; 16; 17; 18; 19; 20; 21; 22; 23; 25; 26; 27; 28; 29; 31; 32; 34; 35; 37; 38; 40; 42; 43; 44; 45; 46; 48; 51; 52; 53.

Block: 10215 Lots: 1; 12; 13; 14; 15; 16; 17; 18; 19; 21; 22; 24; 26; 28; 30; 31; 32; 33; 34; 36; 37; 38; 40.

Block: 10216 Lots: 1; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 28; 29; 31; 32; 33; 34; 36; 37; 38; 39; 40; 41.

Block: 10217 Lots: 1; 29; 31; 33; 34; 39; 45; 48.

Block: 10218 Lots: 1; 23; 25; 30; 31; 32; 35; 36; 37; 38; 39; 40; 41; 43; 45; 46; 47; 48; 50; 51; 52; 53; 55; 62; 71; 146.

Block: 10219 Lots: 1; 3; 5; 7; 9; 11; 13; 15; 16; 17; 18; 19; 21; 24; 26; 27; 29; 32; 34; 35; 36; 37; 39; 40; 41; 42; 43; 45; 47; 48; 56; 58; 59; 60; 62; 75; 76; 78; 81; 88; 89; 92; 94; 96; 97; 99; 102; 110; 115; 116; 135; 149; 151; 152; 153; 154; 155; 156; 157; 158; 159; 161; 162; 163; 164; 165; 167; 168; 201; 203; 204; 205; 206; 212; 213; 217; 218; 219; 220; 221; 222; 223; 226; 228; 287; 301; 305; 308; 309; 311; 312; 314; 315; 316; 450.

Block: 10220 Lots: 1; 3; 4; 5; 6; 10; 13; 14; 15; 17; 19; 21; 24; 25; 36; 42; 43; 44; 57; 74; 76; 77; 78; 84; 86; 92; 93.

Block: 10221 Lots: 2; 3; 5; 7.

Block: 10225 Lots: 1; 4; 7; 9.

Block: 10232 Lots: 2; 4; 6; 12; 14; 20; 29; 30; 31; 32.

Block: 10236 Lots: 1; 5; 70.

Block: 10237 Lots: 1; 5.

Block: 10244 Lots: 1; 211; 215; 216; 217; 219; 220; 221; 223; 224; 225.

Block: 10304 Lots: 25; 38.

Block: 10316 Lots: 1; 3; 4; 25; 27; 29; 31; 33; 35; 37.

Block: 10317 Lots: 8; 9; 10; 15; 16; 17; 18; 19; 20; 22.

Block: 10318 Lots: 1; 3; 4; 5; 7; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 104; 114.

Block: 10319 Lots: 1; 6; 12; 20; 22.

Block: 10320 Lots: 1; 6; 10; 12; 15; 29.

Block: 10321 Lots: 1; 2; 3; 5; 6; 7; 8; 11; 16.

Block: 10322 Lots: 1; 9; 20; 26; 34; 35; 37; 38; 39; 40; 41.

Block: 10323 Lots: 1; 6; 12; 14; 15; 19; 21; 23; 121.

Block: 10324 Lots: 1; 4; 15.

Block: 10325 Lots: 1; 6; 10; 40.

Block: 10328 Lots: 25; 44; 49.

Block: 10329 Lots: 1; 7; 175; 176; 190; 195; 200; 202; 207; 213; 215.

Block: 10330 Lots: 110; 115; 120; 134; 135; 136; 137; 138; 139; 140; 141; 142; 143; 144; 145.

Block: 10331 Lots: 1.

Block: 10332 Lots: 6; 15; 19.

Block: 10335 Lots: 1; 8; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 32; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 64; 65; 66; 67; 68; 69; 70; 164.

Block: 10336 Lots: 2; 12; 30; 42; 59; 60; 80; 150; 152; 160; 170.

Block: 10343 Lots: 5; 15; 25; 33; 40; 47; 70; 85; 100; 165; 205; 227; 256; 300; 319; 320.

Block: 10352 Lots: 50; 54; 58; 61; 66; 71; 79; 89; 98; 108; 119; 120; 125; 135; 145; 146; 370; 380.

Block: 10353 Lots: 85, 105, 110, 208, 210.

Area 2:

Block: 13281 Lots: 1; 6; 10; 13; 15; 17; 19; 21; 23; 25; 27; 28; 29; 39; 45.

Block: 13295 Lots: 1; 21; 50; 55.

Block: 13296 Lots: 7; 14; 101.

Block: 13298 Lots: 1; 11.

Block: 13300 Lots: 267; 269; 274; 279; 281; 301; 310; 315.

Block: 13301 Lots: 228; 230; 232; 234; 240; 251; 256; 260; 261; 263; 265.

Block: 13302 Lots: 156; 166; 171; 180.

Block: 13364 Lots: 13; 15; 25; 27; 29; 33; 36; 40; 70; 74; 76; 78.

Block: 13365 Lots: 1; 14; 22.

Block: 13366 Lots: 20.

Block: 13376 Lots: 1; 7; 11; 22; 29; 40; 48.

Block: 13377 Lots: 1; 6; 12; 18; 26.

Block: 13378 Lots: 32.

Block: 13379 Lots: 21; 24; 30; 36; 42; 44; 50; 57; 65; 67; 72; 77.

Block: 13380 Lots: 1; 11; 33; 63; 67.

Block: 13381 Lots: 1.

Block: 13382 Lots: 16; 17.

Block: 13383 Lots: 45; 51; 54; 72; 76.

Block: 13384 Lots: 55; 56; 65; 68; 71; 74; 80; 84.

Block: 13387 Lots: 73; 75; 79; 85.

Block: 13406 Lots: 1; 3; 7; 13; 19; 28; 35; 39; 175; 183.

Block: 13407 Lots: 1; 5; 7; 12; 17; 19; 20; 21; 23; 25; 32; 34; 36.

Block: 13408 Lots: 1; 9; 160.

Block: 13409 Lots: 1; 8; 12; 21; 28; 40.

Block: 13410 Lots: 1; 6; 10; 18; 28; 42; 45.

Block: 13411 Lots: 1; 16.

Block: 13412 Lots: 1.

Block: 13413 Lots: 1; 31; 40; 42; 47; 50.

Block: 13414 Lots: 7; 10; 12; 13; 15; 19; 22; 25; 26.

Block: 13415 Lots: 1; 30.

Block: 13416 Lots: 1; 45.

Block: 13419 Lots: 1; 2; 4; 6; 10; 13; 27; 30.

Block: 13420 Lots: 8.

Block: 13427 Lots: 1; 3; 14; 22; 42.

Block: 13430 Lots: 2.

Block: 13432 Lots: 6; 20; 21; 23; 26; 28; 30; 32; 36; 40; 46; 49; 53; 57; 59; 65; 67.

Block: 13433 Lots: 1; 2; 5; 10; 15; 20; 23; 29; 34; 35; 36; 41; 45; 48; 49; 51; 53; 55; 57; 59; 61; 62; 64; 65; 67; 69; 71.

Block: 13791 Lots: 2; 20; 21; 22; 23.

Block: 14260 Lots: 90; 111.

Block: 15000 Lots: 1; 12; 21; 24; 29; 30; 31; 41; 43; 46; 47; 49; 51; 56.

Block: 15001 Lots: 73; 87; 90; 92; 95; 98; 101; 104; 121; 122; 123; 125; 127; 129.

Block: 15002 Lots: 1; 15; 16; 20; 21; 25; 38; 40; 42; 43; 44; 46; 47.

Block: 15003 Lots: 53.

Block: 15004 Lots: 1; 17.

Block: 15005 Lots: 25; 30; 31; 34; 37; 40; 42.

Block: 15006 Lots: 54; 55; 62; 65; 70.

Block: 15007 Lots: 80.

Block: 15008 Lots: 1; 5; 8; 14; 28; 33.

Block: 15009 Lots: 2; 6; 16; 17; 19; 22; 25; 29; 36; 51.

Block: 15010 Lots: 1; 28; 33; 45; 46; 49; 50; 52; 55; 56; 59; 62; 63; 66.

Block: 15011 Lots: 1; 2; 4; 5; 6; 25; 29; 71; 74.

Block: 15012 Lots: 6; 413; 414; 415; 416; 417; 418; 419; 420; 421; 422; 423; 424; 475; 477; 478; 479; 480; 482; 483; 484; 485.

Block: 15013 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 11; 12; 13; 14; 15; 16; 17; 18; 22; 23; 24; 25; 26; 27; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 44; 45; 46; 47.

Block: 15014 Lots: 425; 426; 427; 428; 429; 430; 431; 432; 434; 435; 437; 438; 439; 440; 441; 442; 443; 444; 446; 447; 448; 449; 450; 451; 452; 453; 454; 455; 456; 457; 458; 459; 460; 462; 463; 464; 465; 466; 467; 468; 469; 470.

Block: 15015 Lots: 301; 302; 303; 304; 305; 306; 307; 308; 309; 310; 311; 325; 326; 327; 328; 329; 330; 331; 332; 333; 334; 335; 336; 337; 338; 339; 340; 341; 342; 343; 344; 345; 346; 347; 348; 349; 350; 351; 352; 353; 354; 355.

HISTORICAL NOTE

Section added L.L. 8/1987 § 1, effective 3/5/1987.

Subd. a amended L.L. 37/1993 § 1, eff. May 18, 1993.

Subd. a repealed and added L.L. 57/1988 § 4.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. b amended L.L. 52/2003 § 12, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. b "economic development zone" redesignated "empire zone"

by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c amended L.L. 52/2003 § 12, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. d amended L.L. 52/2003 § 12, eff. July 1, 2003. [See Charter § 1301 Note 1]

Subds. i, j added L.L. 6/2002 § 8, eff. June 10, 2002.

Subd. k added L.L. 45/2006 § 8, eff. Nov. 9, 2006. [See Note 2]

Subd. l added L.L. 45/2006 § 8, eff. Nov. 9, 2006. [See Note 2]

NOTE

1. Provisions of L.L. 6/2002:

Section 1. By Local Law No. 8 for the year 1987, adopted on March 5, 1987, The Council of the City of New York authorized an application for the designation of the South Jamaica economic development zone relative to certain land within Queens County.

§ 2. The City of New York has received economic development zone approval from New York State.

§ 3. By Local Law No. 57 for the year 1988, adopted on August 19, 1988, the South Jamaica economic development zone was expanded.

§ 4. By Local Law No. 37 for the year 1993, adopted on May 18, 1993, the South Jamaica economic development zone was expanded a second time.

§ 5. It is the desire of the council of the City of New York to authorize an application to revise the South Jamaica economic development zone, now called the South Jamaica empire zone, to include 65 acres located in Queens County in the City of New York.

§ 6. The City of New York is hereby authorized to submit an application to revise the South Jamaica empire zone to include the property described in section seven of this local law.

§ 7. The boundaries of the South Jamaica empire zone, as described in Local Law No. 8 for the year 1987, Local Law No. 57 for the year 1988 and Local Law No. 37 for the year 1993, shall be expanded to include the properties generally described as follows:

Beginning at the point of intersection of the center line of Atlantic (95th) Avenue and the center line of Liverpool Street; thence running westerly along the center line of Atlantic Avenue to the point where it meets the center line of the Van Wyck Expressway Service Road; thence northerly along the center line of the Van Wyck Expressway Service Road

to the point where it meets the center line of Archer Avenue; thence easterly along the center line of Archer Avenue to the point where it meets the easterly street line of Sutphin Boulevard; thence southerly along the easterly street line of Sutphin Boulevard to the point where it meets the center line of 94th Avenue; thence westerly along the center line of 94th Avenue to the point where it meets the center line of Liverpool Street; thence southerly along the center line of Liverpool Street to the point and place of beginning.

Beginning at the point of intersection of the easterly street line of Sutphin Boulevard and the center line of 94th Avenue; thence northerly along the easterly street line of Sutphin Boulevard to the point where it meets the center line of the main line set of tracks of the Long Island Rail Road; thence easterly along the center line of the main line set of tracks of the Long Island Rail Road to the point where it meets the prolongation of the center line of 158th Street; thence southerly along the prolongation of the center line of 158th Street to the point where it meets the center line of 94th Avenue; thence westerly along the center line of 94th Avenue to the point and place of beginning.

Beginning at the point of intersection of the center line of Sutphin Boulevard and the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point 100 feet to the west of Sutphin Boulevard as measured from its the westerly street line; (2) thence northerly along a line 100 feet to the west of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of 97th Avenue; thence easterly along the center line of 97th Avenue to the point where it meets the center line of Sutphin Boulevard; thence southerly along the center line of Sutphin Boulevard to the point and place of beginning.

Beginning at the point of intersection of the center line of Liberty Avenue and the center line of Sutphin Boulevard; thence southerly along the center line of Sutphin Boulevard to the point where it meets the center line of South Road; thence westerly along the center line of South Road to a point 100 feet to the west of Sutphin Boulevard as measured from its westerly street line; thence northerly along a line 100 feet to the west of the westerly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of Liberty Avenue; thence easterly along the center line of Liberty Avenue to the point and place of beginning.

Beginning at the point of intersection of the center line of the main line set of tracks of the Long Island Rail Road and the prolongation of the center line of 158th Street; thence easterly along the main line set of tracks of the Long Island Rail Road to the point where it meets the center line of 160th Street; thence southerly along the center line of 160th Street to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to the point where it meets the center line of 158th Street; thence northerly along the center line of 158th Street and its prolongation to the point and place of beginning. Such area shall not include parcels occupied by the United States Food & Drug Administration or the Prospect Cemetery.

Beginning at the point of intersection of a point midway between the center line of South Road and the center line of Liberty Avenue and the center line of 160th Street; thence southerly along the center line of 160th Street to the point where it meets the center line of South Road; thence easterly along the center line of South Road to the point where it meets the center line of Guy Brewer Boulevard; thence northerly along the center line of Guy Brewer Boulevard to a point midway between the center line of South Road and the center line of Liberty Avenue; thence westerly along a line midway between the center line of South Road and the center line of Liberty Avenue to the point and place of beginning.

Beginning at the point of intersection of the center line of Archer Avenue (93rd Avenue) and the center line of 165th Street; thence southerly along the center line of 165th Street to the point where it meets the center line of Liberty Avenue; thence westerly along the center line of Liberty Avenue to a point midway between the center line of 165th Street and the center line of Guy Brewer Boulevard; thence northerly along a line midway between the center line of 165th Street and the center line of Guy Brewer Boulevard to the point where it meets the center line of Archer Avenue; thence easterly along the center line of Archer Avenue to the point and place of beginning.

Beginning at the point of intersection of the center line of Sutphin Boulevard and the center line of Jamaica

Avenue; thence westerly along the center line of Jamaica Avenue to the point where it meets the prolongation of the center line of 144th Place; thence northerly along the prolongation of the center line of 144th Avenue to a point 100 feet to the north of Jamaica Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of the northerly street line of Jamaica Avenue and running parallel thereto to a point 100 feet to the west of Sutphin Boulevard as measured from its westerly street line; thence northerly along a line 100 feet to the west of the westerly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of Hillside Avenue; thence easterly along the center line of Hillside Avenue to a point 100 feet to the east of Sutphin Boulevard as measured from its easterly street line; thence southerly along a line 100 feet to the east of the easterly street line of Sutphin Boulevard and running parallel thereto to the point where it meets the center line of 88th Avenue; thence westerly along the center line of 88th Avenue to the point where it meets the center line of Sutphin Boulevard; thence southerly along the center line of Jamaica Avenue to the point and place of beginning.

. . . . . .

§ 9. The commissioner of the New York State department of economic development is hereby requested to revise the boundaries of the South Jamaica empire zone in accordance with this local law.

2. Provisions of L.L. 45/2006:

§ 7. (a) By Local Law No. 8 for the year 1987, adopted on March 5, 1987, the council of the city of New York authorized an application for the designation of the South Jamaica economic development zone relative to certain land within the borough of Queens.

(b) The city of New York has received economic development zone approval from New York State.

(c) By Local Law No. 57 for the year 1988, adopted on August 19, 1988, the boundaries of the South Jamaica economic development zone were revised.

(d) By Local Law No. 37 for the year 1993, adopted on May 18, 1993, the boundaries of the South Jamaica economic development zone were revised a second time.

(e) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the South Jamaica economic development zone is now known as the South Jamaica empire zone.

(f) By Local Law No. 6 for the year 2002, adopted on June 10, 2002, the boundaries of the South Jamaica empire zone were revised a third time.

(g) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the South Jamaica empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(h) The South Jamaica empire zone has been configured into two distinct and separate contiguous areas. Such areas are described by block and lot in subdivision l of section 22-705 of the administrative code of the city of New York, as added by section eight of this local law.

(i) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Queens as the South Jamaica empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(j) Pursuant to Article 18-B of the General Municipal Law, the South Jamaica Empire Zone Administrative

Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the South Jamaica Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-706

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-706 [Boundary line of zone divides tax lot.]*

In6 the event that any empire zone district boundary line described in this chapter divides any tax lot so that only a portion of such tax lot is included within such district, such tax lot shall be deemed to be wholly included within such district for the purpose of determining eligibility for the benefits to be provided pursuant to this chapter.

HISTORICAL NOTE

Section amended "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section added L.L. 57/1988 § 5.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued

pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.
6

[Footnote 6]: * Material in brackets supplied by editor.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-707

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-707 Shift of business operations within New York city.

A business enterprise which shifts its operations, or some portion thereof, from an area within New York city not designated as an empire zone to an area within New York city so designated pursuant to article 18-B of the general municipal law and this chapter shall be eligible to receive benefits as provided in article 18-B of the general municipal law.

HISTORICAL NOTE

Section amended "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section added L.L. 54/1988 § 1.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to

"empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-708

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-708 Empire zone plans and applications.

The department of small business services shall prepare empire zone plans in accordance with the requirement of article 18-B of the general municipal law and the rules and regulations promulgated pursuant thereto. Such plans shall be presented to the speaker of the city council, who shall certify that such plans are accurate and complete. Upon certification of a plan, the department of small business services shall be authorized to apply to the state commissioner of economic development for designation of the area described therein as an empire zone.

HISTORICAL NOTE

Section amended L.L. 34/2002 § 22, eff. Nov. 7, 2002.

Section amended "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section renumbered & amended L.L. 5/1994 § 1, eff. Apr. 18 1994 (formerly § 22-707)

Section renumbered L.L. 57/1988 § 5, (formerly § 22-706)

Section added L.L. 8/1987 § 1.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-709

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-709 Hunts Point zone.

a. There is hereby established in the borough of the Bronx an empire zone as follows:

BEGINNING at the point of intersection of the center line of East 156th Street and the center line of Prospect Avenue; thence northeasterly along the center line of Prospect Avenue to the point where it meets the center line of East 162nd Street, said line being the district boundary line between the R7-1 and R6 zoning districts as it appears on Sheet 6c of the Zoning Map of the New York City Planning Commission as amended effective February eighth, nineteen hundred ninety (A-1571), as contained in the Zoning Resolution of the City of New York; thence easterly along the center line of East 162nd Street to a point 100 feet to the northwest of Westchester Avenue as measured from its northwesterly street line; thence northeasterly along a line 100 feet to the northwest of Westchester Avenue and running parallel thereto to the point where it meets the westerly U.S. pierhead and bulkhead line of the Bronx River; thence southerly along the said U.S. pierhead and bulkhead line to a point where said pierhead and bulkhead lines divide; thence southerly and westerly along the westerly U.S. pierhead line of the Bronx River to a point where said U.S. pierhead line would meet the center line of Halleck Street if such center line were extended to the pierhead line; thence northerly along the prolongation of the center line of Halleck Street to the point where it meets the center line of Ryawa Avenue; thence westerly along the center line of Ryawa Avenue to the point where it meets the center line of Manida Street; thence southerly along the center line of Manida Street and its prolongation to a point where it meets the northerly U.S. pierhead line of the East River; thence northwesterly along said U.S. pierhead line to the point where it meets the center line of the southerly terminus of East 149th Street; thence northerly along the center line of East 149th Street to the point where it meets the main line set of tracks of the New York, New Haven & Hartford Rail Road as such set of tracks appear on Sheet 6c as described aforesaid; thence northeasterly along the main line set of tracks of the

New York, New Haven & Hartford Rail Road to the point where it meets the center line of Leggett Avenue; thence northwesterly along the center line of Leggett Avenue to the point where it meets the center line of East 156th Street; thence easterly along the center line of East 156th Street to the point and place of beginning.

The following areas shall not be included in the empire zone: (1) Joseph Rodman Drake Park:

BEGINNING at the point of intersection of the center line of Longfellow Avenue and the center line of Oak Point Avenue; thence easterly along the center line of Oak Point Avenue to the point where it meets the center line of Hunt's Point Avenue; thence southeasterly along the center line of Hunt's Point Avenue to the point where it meets the center line of Drake Park Square; thence westerly along the center line of Drake Park Square to the point where it meets the center line of Longfellow Avenue; thence northerly along the center line of Longfellow Avenue to the point and place of beginning.

(2) Bill Rainey Memorial Park: BEGINNING at the point of intersection of the center line of Longwood Avenue and the center line of Dawson Street; thence northeasterly along the center line of Dawson Street to the point where it meets the center line of Intervale Avenue; thence southeasterly along the center line of Intervale Avenue to the point where it meets the center line of Beck Street; thence southwesterly along the center line of Beck Street to a point 100 feet to the north of Longwood Avenue as measured from its northerly street line; thence northwesterly along a line 100 feet to the north of Longwood Avenue and running parallel thereto to a point on the prolongation of the center line of Kelly Street; thence southerly along the prolongation of the center line of Kelly Street to the point where it meets the center line of Longwood Avenue; thence northwesterly along the center line of Longwood Avenue to the point and place of beginning.

(3) BEGINNING at the point of intersection of the westerly street line of Edgewater Road and the southerly street line of the Bruckner Expressway; thence westerly along the southerly street line of the Bruckner Expressway to the point where it meets the easterly street line of the Sheridan Expressway; thence southwesterly along the easterly street line of the Sheridan Expressway to the point where it meets the northerly street line of Hunt's Point Avenue; thence westerly along the northerly street line of Hunt's Point Avenue to the point where it meets the westerly street line of the Sheridan Expressway; thence northeasterly along the westerly street line of the Sheridan Expressway to a point 100 feet to the north of Westchester Avenue as measured from its northerly street line; thence easterly along a line 100 feet to the north of Westchester Avenue and running parallel thereto to the point where it meets the easterly street line of the Sheridan Expressway; thence southerly along the easterly street line of the Sheridan Expressway to the point where it meets the northerly street line of the Bruckner Expressway; thence easterly along the northerly street line of the Bruckner Expressway to the point where it meets the westerly line of Edgewater Road; thence southerly along the westerly street line of Edgewater Road to the point and place of beginning.

(4) BEGINNING at the point of intersection of the southerly street line of Hunt's Point Avenue and the easterly street line of the Sheridan Expressway; thence southwesterly along the easterly street line of the Sheridan Expressway to the point where it meets the center line of Leggett Avenue; thence westerly along the center line of Leggett Avenue to the point where it meets the southerly street line of Hunt's Point Avenue; thence easterly along the southerly street line of Hunt's Point Avenue to the point and place of beginning.

(5) Any lands under water.

b. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision c of this section, the boundaries of the zone set forth in subdivision a of this section shall be superseded by subdivision c of this section.

c. There is hereby established in the borough of the Bronx an empire zone consisting of the following blocks and lots:

Area 1:

Block: 2604 Lots: 33; 34; 68; 72; 74; 140; 174; 195; 252; 270; 275; 280; 292; 295; 500; 600.

Block: 2606 Lots: 1; 2; 3; 4; 5; 28; 30; 41; 49; 63; 125; 140; 172; 204; 230; 252.

Block: 2730 Lots: 28; 98; 101; 150.

Block: 2731 Lots: 1; 2; 3; 4; 5; 27; 40; 43; 49; 55; 61; 64; 65; 154.

Block: 2733 Lots: 55; 58.

Block: 2736 Lots: 11; 21; 42; 49; 52; 57; 58; 66; 70; 80; 82; 84; 86; 105; 109; 115; 120; 122; 123; 130; 138; 146; 148; 149; 150; 151; 156; 160; 185; 189; 194; 202; 208; 213; 225; 237; 242; 252; 254; 256; 257; 266; 270; 276; 277; 279; 283; 297.

Block: 2737 Lots: 1; 14; 16; 20; 22; 23; 38; 40; 41; 48; 61; 65; 67; 69; 70; 75; 76; 78; 79; 80; 91; 95; 102; 115; 121; 125; 127; 129; 130; 134; 137; 140; 141; 142.

Block: 2739 Lots: 1; 15.

Block: 2741 Lots: 1; 42; 50; 60; 66; 89; 100.

Block: 2755 Lots: 29; 48; 51; 52; 58; 62; 95; 107; 109; 110; 115; 120; 125; 131; 133.

Block: 2756 Lots: 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 85; 90.

Block: 2757 Lots: 34; 35; 36; 37; 38; 39; 40; 41; 42; 44; 50; 51; 66; 67; 68; 69; 80; 85; 89; 92; 93; 112; 121; 122; 123; 124.

Block: 2759 Lots: 1; 20; 22; 28; 42; 45; 70; 100; 101; 160; 169; 187; 240; 250; 260; 388; 389; 392.

Block: 2761 Lots: 1; 3; 6; 10; 18; 22; 24; 30; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 83; 87; 92; 93; 94; 95; 97; 101; 102; 103; 107; 111; 112; 113; 114; 115; 116; 117; 120; 126; 130; 137; 138; 139; 142; 149; 153; 154; 156; 157; 158; 159; 160; 161; 162; 163; 164; 166; 169; 173; 177; 179; 183; 189; 192; 193; 202; 208; 219; 224; 227; 231; 233; 236; 244; 248; 249; 252; 413; 415; 465; 472; 473; 474; 475; 476; 578; 579.

Block: 2762 Lots: 1; 7; 12; 13; 14; 15; 16; 17; 18; 19; 20; 23; 25; 35; 37; 40; 42; 44; 45; 47; 49; 51; 54; 56; 57; 59; 60; 61; 62; 63; 64; 65; 72; 78; 80; 82; 84; 85; 86; 89; 91; 92; 93; 94; 95; 97; 103; 106; 107; 108; 109; 110; 111; 112; 113; 114; 117; 118; 119; 120; 121; 123; 129; 130; 131; 132; 137; 142; 143; 144; 145; 146; 147; 148; 149; 153; 160; 161; 163; 164; 166; 168; 169; 171; 172; 173; 174; 176; 177; 178; 179; 180; 181; 187; 199; 200; 204; 213; 216; 224; 225; 240; 248; 255; 257; 272; 280; 290; 294; 299; 300; 309; 314; 316; 365; 408; 421; 435; 444; 450; 451; 452; 453; 454; 455; 456; 480; 485; 486; 487.

Block: 2763 Lots: 144; 149; 150; 155; 158; 160; 162; 166; 170; 171; 172; 173; 174; 175; 176; 177; 178; 179; 180; 185; 190; 195; 206; 212; 215; 220; 224; 226; 227; 233; 237; 238; 239; 240; 245; 248; 252; 256; 275; 279; 329; 331; 335; 339; 343; 345; 352; 353; 357; 360; 371; 373; 379; 384.

Block: 2764 Lots: 1; 9; 17; 21; 25; 37; 38; 39; 51; 53; 70; 86; 92; 95.

Block: 2765 Lots: 1; 5; 11; 13; 15; 20; 22; 29; 31; 34; 42; 46; 56; 59; 63; 67; 70; 74; 78; 79; 86; 95; 98; 99; 100;

101; 102; 103; 104; 105; 107; 109; 111; 113; 115; 118; 123; 127; 132; 133; 138; 140; 146; 150; 151; 152; 153; 154; 155; 156; 161; 162; 163; 164; 165; 166; 168; 177; 195; 197; 198; 201; 205; 206; 209; 210; 211; 212; 213; 214; 215; 216; 217; 218; 219; 226; 227; 228; 232; 246; 247; 248; 249; 250; 255; 256; 257; 258; 259; 261; 263; 264; 266; 267; 268; 269; 273; 274; 276; 277; 281; 282; 283; 284; 289; 290; 293; 294; 295; 296; 297; 298; 299; 300; 301; 302; 303; 304; 305; 307; 308; 309; 310; 311; 312; 313; 314; 316; 647.

Block: 2766 Lots: 1; 12; 15; 16; 17; 18; 20; 21; 22; 24; 25; 26; 27; 28; 29; 31; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 70; 71; 72; 73; 74; 77; 78; 79; 80; 81; 87; 88; 90; 92; 98; 114; 117; 118; 132; 133; 134; 135; 136; 137; 138; 139; 140; 145; 165; 167; 168; 180; 184; 190; 196; 204; 206; 208; 212; 214; 217; 218; 226; 230; 232; 240; 245; 254; 265; 276; 283; 286; 289; 291; 294; 295; 300; 320; 450; 451; 459; 515; 520; 522; 523; 533; 535; 537; 539; 835.

Block: 2768 Lots: 1; 5; 9; 12; 15; 23; 33; 34; 41; 49; 53; 60; 65; 77; 81; 83; 87; 89; 91; 93; 97; 101; 105; 115; 117; 120; 137; 145; 149; 153; 159; 171; 179; 187; 188; 192; 193; 196; 198; 206; 207; 208; 210; 212; 216; 218; 222; 226; 228; 230; 233; 237; 241; 246; 249; 251; 253; 258; 260; 265; 275; 279; 280; 281; 285; 289; 295; 297; 298; 299; 303; 305; 333; 337; 343; 346; 352; 353; 354; 356; 360; 368; 376; 377; 379; 382.

Block: 2769 Lots: 1; 5; 10; 12; 13; 17; 19; 21; 27; 32; 38; 44; 49; 52; 54; 57; 62; 64; 66; 67; 71; 72; 73; 80; 84; 88; 90; 93; 94; 96; 97; 102; 106; 108; 109; 112; 120; 134; 141; 145; 161; 167; 170; 172; 186; 193; 195; 200; 205; 219; 4593.

Block: 2770 Lots: 1.

Block: 2771 Lots: 30; 45; 74; 75; 99; 100; 121; 130; 135; 138; 153; 161; 165; 170; 173; 174; 175; 177; 181; 185; 201; 203; 210; 211; 212; 215; 217; 219; 225; 233; 235; 237; 5279.

Block: 2772 Lots: 1; 9; 13; 15; 17; 19; 20; 25; 31; 35; 41; 43; 49; 50; 54; 56; 57; 59; 61; 62; 64; 67; 69; 72; 77; 79; 81; 84; 86; 87; 89; 91; 102; 114; 115; 121; 123; 125; 130; 131; 132; 134; 137; 150; 157; 163; 170; 213; 217; 219; 225; 230; 234; 236; 237; 241; 244; 245; 256; 261; 262; 266; 270; 450; 7973.

Block: 2774 Lots: 125; 142; 146; 152; 163; 165; 170; 172; 191; 196; 198; 200; 202; 205; 216; 220; 225; 227; 229; 230; 233; 239; 246; 251; 256; 258; 281; 284; 287; 288; 290; 294; 296; 298; 299; 301; 303; 304; 305; 306; 308; 316; 321; 322; 323; 328; 329; 331; 333; 334; 335; 337; 340; 342; 344; 347; 349; 367; 369; 372; 375; 601; 631; 1289.

Block: 2775 Lots: 1; 9; 16; 18; 20; 27; 29; 30; 34; 36; 38; 40; 44; 49; 53; 63; 71; 73; 77; 78; 80; 81; 83; 85; 93; 97; 145; 148; 155; 169; 173; 178; 182; 187; 193; 196; 198; 201; 203; 204; 208; 210; 216; 230; 236; 238; 279.

Block: 2777 Lots: 25; 100; 105; 150; 152; 162; 166; 172; 173; 177; 180; 183; 185; 186; 196; 200; 205; 230; 246; 250; 292; 353; 410; 417; 418; 420; 428; 433; 442; 446; 447; 449; 451; 453; 455; 457; 600; 901; 903.

Block: 2778 Lots: 100.

Block: 2779 Lots: 1.

Block: 2780 Lots: 2; 72; 73; 74; 172; 500.

Block: 2781 Lots: 160; 301; 306; 400; 500; 800.

Area 2:

Block: 3513 Lots: 44.

Block: 3540 Lots: 29; 40; 101.

Block: 3542 Lots: 1; 13; 20.

Block: 3576 Lots: 1; 50.

Block: 3579 Lots: 1.

Block: 3616 Lots: 1; 12; 17; 30.

Block: 3617 Lots: 1.

Block: 3618 Lots: 1.

Block: 3619 Lots: 1.

Block: 3696 Lots: 32; 43; 44; 45; 50; 142.

Block: 3697 Lots: 11; 16; 18.

Block: 3698 Lots: 31; 34; 36; 47; 58.

Block: 3699 Lots: 37.

Block: 3700 Lots: 26; 31; 46; 57; 58; 59; 61; 62; 63.

Block: 3702 Lots: 1; 49; 101.

Block: 3706 Lots: 1; 20.

Block: 3827 Lots: 1; 30; 44; 55; 86; 101; 126; 127; 130; 142; 158.

Block: 3828 Lots: 37; 39; 41.

Block: 3829 Lots: 34.

Block: 3830 Lots: 44.

Block: 3831 Lots: 35; 36; 40; 65.

Block: 3832 Lots: 37.

Block: 3835 Lots: 3; 100.

Block: 3836 Lots: 1.

Block: 3837 Lots: 1.

Block: 3838 Lots: 1; 118; 139; 159; 175; 176; 187; 198; 225; 226; 227; 250; 260; 301; 311; 318.

Block: 3840 Lots: 1; 23; 100; 125.

Block: 3841 Lots: 1.

Block: 3842 Lots: 2; 55.

Block: 3843 Lots: 1; 45.

Block: 3844 Lots: 1; 16; 31; 124; 125; 128; 129; 225.

Block: 3847 Lots: 1; 3; 5; 10; 14; 18; 21.

Block: 3848 Lots: 30; 55; 57; 65; 81.

Block: 3849 Lots: 1.

Block: 3850 Lots: 1; 11.

Block: 3851 Lots: 1; 5; 20; 24; 35; 60.

Block: 3852 Lots: 1; 164.

Block: 3856 Lots: 1; 10; 13; 18.

Block: 3857 Lots: 9; 15; 16; 21; 27; 33; 40.

Block: 3858 Lots: 16; 21; 25; 27; 29; 31; 35.

Block: 3859 Lots: 1; 40.

Block: 5541 Lots: 7; 8; 14; 200; 210; 215; 275.

Block: 5559 Lots: 1; 40.

Block: 5560 Lots: 1; 5; 60; 62; 68; 77.

Block: 5610 Lots: 5; 6; 16; 87; 120.

Block: 5611 Lots: 2; 27; 28; 46; 49; 50; 55; 56; 60; 63; 66; 68; 69; 72; 74; 77; 78; 80; 84; 154.

HISTORICAL NOTE

Section added L.L. 5/1994 § 2, eff. Apr. 18, 1994.

Subd. a open par, fourth par "economic development zone" redesignated

"empire zone" by the Legislative Bill Drafting Commission per

Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. b added L.L. 45/2006 § 10, eff. Nov. 9, 2006. [See Note 1]

Subd. c added L.L. 45/2006 § 10, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 9. (a) By Local Law No. 5 for the year 1994, adopted on April 18, 1994, the council of the city of New York authorized an application for the designation of the Hunts Point economic development zone relative to certain land within the borough of the Bronx.

(b) The city of New York has received economic development zone approval from New York state.

(c) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Hunts Point economic development zone is now known as the Hunts Point empire zone.

(d) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Hunts Point empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(e) The Hunts Point empire zone has been configured into two distinct and separate contiguous areas. Such areas are described by block and lot in subdivision c of section 22-709 of the administrative code of the city of New York, as added by section ten of this local law.

(f) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of the Bronx as the Hunts Point empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(g) Pursuant to Article 18-B of the General Municipal Law, the Hunts Point Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the Hunts Point Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

NYC Administrative Code 22-710

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-710 Southwest Brooklyn zone.

a. There is hereby established in the borough of Brooklyn an empire zone as follows:

BEGINNING at the point of intersection of the easterly U.S. pierhead line of the Buttermilk Channel of the East River and the center line of Hamilton Avenue; thence southeasterly along the center line of Hamilton Avenue to the point where it meets the center line of Imlay Street; thence southwesterly along the center line of Imlay Street to the point where it meets the center line of Pioneer Street; thence westerly along the center line of Pioneer Street to the point where it meets the center line of Conover Street; thence southwesterly along the center line of Conover Street to the point where it meets the center line of Reed Street; thence easterly along the center line of Reed Street to the point where it meets the center line of Van Brunt Street, said line being the district boundary line between the M1-1 and the M3-1 zoning districts as it appears on Sheet 16a of the Zoning Map of the New York City Planning Commission as amended effective March eighth, nineteen

hundred ninety (A-1579), as contained in the Zoning Resolution of the City of New York; thence northeasterly along the center line of Van Brunt Street to the point where it meets the center line of Beard Street, said line being the district boundary line between the M1-1 and M3-1 zoning districts as it appears on Sheet 16a as described aforesaid; thence southeasterly along the center line of Beard Street to the point where it meets the center line of Walleck Street; thence easterly along the center line of Walleck Street to the point where it meets the center line of Columbia Street; thence northerly along the center line of Columbia Street to the point where it meets the center line of Bay Street; thence easterly along the center line of Bay Street to the point where it meets the center line of Hicks Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 16a as described aforesaid; thence northerly along the center line of Hicks Street to the point

where it meets the center line of Lorraine Street; thence westerly along the center line of Lorraine Street to the point where it meets the center line of Wolcott Street; thence northwesterly along the center line of Wolcott Street to the point where it meets the center line of Richards Street, said line being the district boundary line between the R5 and R6 zoning districts as it appears on Sheet 16a as described aforesaid; thence northeasterly along the center line of Richards Street to the point where it meets the center line of Verona Street; thence southeasterly along the center line of Verona Street to the point where it meets the center line of Columbia Street; thence southerly along the center line of Columbia Street to the point where it meets the center line of West 9th Street, said line being the district boundary line between the R5 and R6 zoning districts as it appears on Sheet 16a as described aforesaid; thence easterly along the center line of West 9th Street to the point where it meets the

center line of Hicks Street; thence southerly along the center line of Hicks Street to the point where it meets the center line of Mill Street; thence easterly along the center line of Mill Street to the point where it meets the center line of Henry Street; thence northerly along the center line of Henry Street to the point where it meets the center line of West 9th Street; thence easterly along the center line of West 9th Street to the point where it meets the center line of Hamilton Avenue; thence southwesterly along the center line of Hamilton Avenue to the point where it meets the easterly U.S. pierhead and bulkhead line of the Gowanus Creek; thence northeasterly along the said U.S. pierhead and bulkhead line to the point where it meets the center line of Carroll Street; thence easterly along the center line of Carroll Street to the point where it meets the center line of Third Avenue; thence southwesterly along the center line of Third Avenue to the point where it meets the center line of First Street;

thence southeasterly along the center line of First Street to the point where it meets the center line of Fourth Avenue; thence southwesterly along the center line of Fourth Avenue to the point where it meets the center line of Seventh Street; thence northwesterly along the center line of Seventh Street to the point where it meets the center line of Second Avenue; thence southwesterly along the center line of Second Avenue to the point where it meets the center line of Eleventh Street; thence southeasterly along the center line of Eleventh Street to the point where it meets the center line of Third Avenue; thence southwesterly along the center line of Third Avenue to the point where it meets the center line of Prospect Avenue; thence southeasterly along the center line of Prospect Avenue to the point where it meets the center line of Fourth Avenue, said line being the district boundary line between the M1-2D and R6 zoning districts as it appears on Sheet 16d of the Zoning Map of the New York City Planning

Commission as amended effective October twenty-third, nineteen hundred ninety-one (A-1622), as contained in the Zoning Resolution of the City of New York; thence southwesterly along the center line of Fourth Avenue to the point where it meets the center line of Twenty Fourth Street, said line being the district boundary line between the M1-2D and R6 zoning districts as it appears on Sheet 16d as described aforesaid; thence southeasterly along the center line of Twenty Fourth Street to the point where it meets the center line of Fifth Avenue, said line being the district boundry line between the R6 and M1-1D zoning districts as it appears on Sheet 16d as described aforesaid; thence southwesterly along the center line of Fifth Avenue to the point where it meets the center line of Twenty Ninth Street; thence northwesterly along the center line of Twenty Ninth Street to the point where it meets the center line of Fourth Avenue; thence southwesterly along the center line of Fourth Avenue to the point where it

meets the center line of Thirty Sixth Street, said line being the district boundary line between the M1-2D and R6 zoning districts as it appears on Sheet 16d as described aforesaid and as it appears on Sheet 16b of the Zoning Map of the New York City Planning Commission as amended effective February twenty-second, nineteen hundred ninety (A-1575), as contained in the Zoning Resolution of the City of New York; thence southeasterly along the center line of Thirty Sixth Street to a point 200 feet to the northwest of Fifth Avenue as measured from its northwesterly street line; thence northeasterly along a line 200 feet to the northwest of Fifth Avenue and running parallel thereto to the point where it meets the center line of Thirty Fifth Street, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 16b as described aforesaid; thence southeasterly along the center line of Thirty Fifth Street to the point where it meets the center line of Fifth Avenue, said

line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 16b as

described aforesaid; thence southwesterly along the center line of Fifth Avenue to the point where it meets the center line of Fortieth Street; thence northwesterly along the center line of Fortieth Street to the point where it meets the center line of Fourth Avenue; thence southwesterly along the center line of Fourth Avenue to the point where it meets the center line of Sixtieth Street; thence northwesterly along the center line of Sixtieth Street to the point where it meets the center line of Third Avenue; thence southwesterly along the center line of Third Avenue to the point where it meets the center line of Wakeman Place; thence northwesterly along the center line of Wakeman Place to the point where it meets the center line of Ridge Boulevard/Second Avenue; thence northeasterly along the center line of Ridge Boulevard/Second Avenue to the point where it meets the prolongation of the center line

of Sixty Sixth Street, said line being the northerly boundary of Owls Head Park as it appears on Sheet 22a of the Zoning Map of the New York City Planning Commission as amended effective May seventh, nineteen hundred ninety-one (A-1606), as contained in the Zoning Resolution of the City of New York; thence northwesterly along the center line of the prolongation of Sixty Sixth Street (the northerly boundary of Owls Head Park and its prolongation) to the point where it meets the easterly U.S. pierhead line of the Upper New York Bay; thence northeasterly along said U.S. pierhead line to a point where it meets the easterly U.S. pierhead and bulkhead line of the Gowanus Creek; thence northerly along said U.S. pierhead and bulkhead line to the point where it meets the southerly street line of Hamilton Avenue; thence northwesterly along the southerly street line of Hamilton Avenue to the point where it meets the westerly U.S. pierhead and bulkhead line of the Gowanus Creek; thence southwesterly along said U.S.

pierhead and bulkhead line to a point where the U.S. pierhead and bulkhead lines divide; thence northwesterly along the easterly U.S. pierhead line of the Upper Bay to the point and place of beginning.

b. The empire zone shall not include any lands under water.

c. In accordance with general municipal law section nine hundred sixty-nine (c), the city of New York hereby requests that the commissioner of the New York state department of economic development approve a proposed revision of the boundaries of the Southwest Brooklyn empire zone. Upon approval by the commissioner of the proposed revision, the boundaries of the zone as set forth in subdivision a of this section shall be superseded by the revised boundaries of the zone as set forth in subdivision d of this section.

d. There is hereby established in the borough of Brooklyn an empire zone which shall include the following blocks:

453; 481; 484; 486; 487; 488; 489; 490; 491; 492; 493; 494; 495; 496; 499; 500; 502; 504; 505; 507; 508; 511; 512; 513; 514; 515; 517; 518; 519; 520; 521; 522; 523; 524; 525; 526; 527; 529; 530; 531; 532; 533; 534; 535; 536; 538; 539; 541; 545; 546; 552; 554; 555; 556;** 562; 564; 565; 566; 572; 573; 547;*7 575; 576; 577; 578; 579; 580; 581; 582; 583; 585; 586; 587; 588; 589; 590; 591; 595; 596; 597; 598; 599; 600; 601; 602; 603**;8 604; 605; 610; 611; 612; 614; 617; 619; 621; 623; 624; 625; 627; 630; 632; 633; 635; 636; 638; 639; 641; 642; 644; 645; 648; 651; 652; 653; 654; 655; 656; 657; 658; 659; 660; 661; 662; 663; 664; 665; 667; 668; 671; 672; 675; 676; 679; 680; 683; 684; 687; 688; 691; 692; 693; 695; 696; 697; 699; 700; 701; 704; 705; 706; 707; 708; 709; 710; 712; 713; 715; 716; 717; 718; 721; 722; 723; 725; 726; 727; 728; 735; 736; 737; 745; 746; 754; 755; 762; 763; 764; 771; 772; 773; 780; 781; 782; 788; 789; 790; 796; 797; 798; 803; 804; 805; 806; 812; 813; 814; 819; 820; 821; 822; 827; 828; 829; 830; 836; 837; 838; 844; 845; 846; 853; 854; 861; 862; 967; 968; 972; 977; 978; 979;***9 980; 990; 991; 992; 1007; 1020; 1025; 1026; 1031; 1032; 1039; 1045; 1050; 5778; 5780; 5789; 5798; 5804; 5806; 5807; 5816.

e. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision f of this section, the boundaries of the zone set forth in subdivision d of this section shall be superseded by subdivision f of this section.

f. There is hereby established in the borough of Brooklyn an empire zone consisting of the following blocks and

lots:

Area 1:

Block: 281 Lots: 1; 62.

Block: 314 Lots: 1; 27; 28; 31; 36; 38; 40; 42.

Block: 316 Lots: 1; 26; 31; 32; 33; 34; 35.

Block: 318 Lots: 1; 28; 29; 30; 32; 33; 34; 35; 36; 37; 50.

Block: 334 Lots: 1; 2; 4; 5; 6; 7; 14; 19; 23; 25; 28; 34; 40; 51; 52; 53; 54; 55; 56; 57; 58; 59; 61; 62; 63; 64; 65.

Block: 340 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 14; 15; 16; 17; 19; 20; 21; 22; 23; 24; 25; 26; 28; 29; 30; 31; 32; 33; 35; 38; 39; 40; 41; 42; 43; 44; 45; 46; 48; 51.

Block: 346 Lots: 1; 2; 3; 5; 6; 7; 9; 10; 11; 21; 22; 23; 25; 26; 29.

Block: 465 Lots: 1; 10; 12; 27; 28; 29; 33; 46; 47; 48; 49; 50.

Block: 466 Lots: 1; 17; 19; 46; 60.

Block: 468 Lots: 1; 2; 3; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 51; 54; 57; 58; 59; 60.

Block: 471 Lots: 100; 104; 110; 114; 116; 125.

Block: 477 Lots: 1; 8; 48; 49.

Block: 480 Lots: 1; 8; 34.

Block: 481 Lots: 1.

Block: 483 Lots: 1; 11; 20.

Block: 484 Lots: 1; 6; 10; 12; 13; 14; 16; 17; 19; 21; 25; 26; 27.

Block: 486 Lots: 1; 6; 9; 12; 18; 20; 23; 25.

Block: 487 Lots: 1.

Block: 488 Lots: 1; 6.

Block: 489 Lots: 1.

Block: 490 Lots: 1; 7; 16.

Block: 491 Lots: 1.

Block: 492 Lots: 1; 15; 20.

Block: 493 Lots: 1.

Block: 494 Lots: 1.

Block: 495 Lots: 1.

Block: 496 Lots: 1; 50.

Block: 502 Lots: 1; 25; 38.

Block: 504 Lots: 1; 20; 50.

Block: 505 Lots: 39; 58; 60.

Block: 507 Lots: 1; 6; 50.

Block: 508 Lots: 1; 3; 5; 7; 10; 18; 23; 25; 30; 36; 38; 40.

Block: 511 Lots: 1; 2; 3; 4; 5; 6; 10; 12; 14; 16; 19; 28; 35.

Block: 512 Lots: 1; 6; 8; 13; 20; 22; 25; 29; 30; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45.

Block: 514 Lots: 1; 21; 40.

Block: 515 Lots: 1; 50; 61; 75; 80; 300.

Block: 517 Lots: 1; 4; 17; 20; 22; 23; 24; 25; 26; 27; 29; 30; 31; 32; 33; 34; 35; 36; 37; 42; 44; 46; 47; 48; 49.

Block: 518 Lots: 1; 6; 7; 8; 10; 11; 12; 20; 23; 28; 35; 39; 40; 41; 43.

Block: 519 Lots: 1; 5; 12; 17; 24.

Block: 522 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 11; 15; 22; 50.

Block: 523 Lots: 1; 13; 18.

Block: 524 Lots: 1; 10.

Block: 529 Lots: 1; 13; 17; 18; 20; 23; 24; 26; 27; 28; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 45; 46.

Block: 545 Lots: 1; 3; 5; 7; 8; 10; 15; 17; 19; 21; 22; 23; 24; 25; 26; 27.

Block: 552 Lots: 1; 3; 5; 13; 17; 18; 21; 22; 23; 24; 25; 29; 31; 34; 37; 38.

Block: 554 Lots: 1; 12; 14; 27; 28; 29; 30; 31; 33; 34; 40.

Block: 555 Lots: 1; 4; 5; 19; 20; 21; 22; 23; 25; 26; 27; 32; 33; 34; 35.

Block: 562 Lots: 1; 4; 14; 16; 18; 25; 26; 27; 28; 29; 32; 33; 37; 46; 49.

Block: 564 Lots: 1; 14; 15; 16; 19; 22; 37; 40; 41; 42; 114.

Block: 565 Lots: 1; 14; 18; 19; 20; 21; 22; 23; 24; 25.

Block: 572 Lots: 1.

Block: 573 Lots: 1; 40; 80; 100; 101.

Block: 574 Lots: 1; 23; 24; 30; 31; 32; 34; 35; 36; 37; 38.

Block: 580 Lots: 1; 5; 16; 25; 29; 36; 43.

Block: 583 Lots: 1; 23; 28; 30; 36.

Block: 585 Lots: 1; 13; 16; 18; 19; 20; 22; 25; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 112.

Block: 589 Lots: 1; 7; 8; 9; 11; 12; 16.

Block: 590 Lots: 1; 19; 32; 45.

Block: 591 Lots: 1; 50.

Block: 595 Lots: 1; 9; 50; 52; 70; 170; 200; 250; 300.

Block: 596 Lots: 1; 6; 12; 22; 27; 44; 45; 46; 47; 48; 49.

Block: 598 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 13; 14; 15; 16; 17; 18; 19; 21; 22; 25; 26; 27; 28; 30; 39; 40; 43; 49; 148.

Block: 599 Lots: 1; 2; 9; 10; 11; 12; 13; 14; 17; 18; 25; 28; 29; 30; 31; 35; 36; 37; 39; 40; 41; 42; 43; 45; 46; 122.

Block: 600 Lots: 1; 3; 4; 5; 11; 19; 22.

Block: 601 Lots: 1; 17.

Block: 604 Lots: 1; 2; 3; 4; 5; 8; 13; 16; 46.

Block: 605 Lots: 1; 24.

Block: 606 Lots: 1; 5; 10.

Block: 607 Lots: 1.

Block: 611 Lots: 1; 6; 11; 25; 55.

Block: 612 Lots: 1; 99; 130; 150; 205; 250.

Block: 614 Lots: 1; 150; 300.

Block: 621 Lots: 1; 34; 134; 136; 139.

Block: 623 Lots: 1; 20; 62; 93; 100; 118.

Block: 624 Lots: 1; 100.

Block: 625 Lots: 1; 2; 65; 80; 90; 104; 250.

Block: 632 Lots: 1; 4; 75; 82.

Block: 633 Lots: 12; 15; 16; 17; 18; 19; 21; 22; 24; 28; 29; 30; 31; 32; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 47; 48; 57; 58; 59; 60; 61; 62; 63; 64; 131.

Block: 635 Lots: 1; 3; 10; 11; 13; 70; 81; 84; 100; 176.

Block: 636 Lots: 11; 13; 14; 15; 16; 17; 26; 27; 31; 35; 40; 42; 43; 47; 50; 52; 53; 58; 59; 60; 61; 62; 63; 64; 138; 144; 7501.

Block: 638 Lots: 1; 10; 72; 73; 74; 77; 78; 83; 84; 85; 86.

Block: 641 Lots: 1; 10; 77; 83; 85; 87; 88.

Block: 644 Lots: 1; 80; 82; 85; 86; 87; 101; 106; 109; 175; 176; 177; 178.

Block: 651 Lots: 5; 11; 14; 15; 16; 18; 19; 21; 22; 23; 24; 25; 28; 29; 31; 32; 33; 34; 36; 39; 41; 47; 51; 54; 57; 58; 60; 159.

Block: 652 Lots: 1; 7; 11; 15; 17; 19; 21; 23; 36; 39; 44; 70; 76; 80.

Block: 653 Lots: 1; 3; 7; 67; 68; 70; 72; 73; 76; 103.

Block: 655 Lots: 1; 3; 4; 5; 6; 7; 10; 13; 15; 19; 21; 22; 25; 26; 27; 28; 30; 31; 33; 35; 36; 39; 42; 47; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61.

Block: 656 Lots: 1; 70; 71; 75.

Block: 659 Lots: 70; 71; 78; 79; 80.

Block: 661 Lots: 1; 2; 3; 4; 5; 13; 14; 16; 17; 18; 19; 20; 21; 22; 32; 41; 52; 60; 61; 63; 64; 66; 68; 69.

Block: 662 Lots: 1; 130; 136; 137; 155; 200.

Block: 663 Lots: 1.

Block: 664 Lots: 3; 28; 29; 37; 42; 51; 52; 54; 55; 56.

Block: 665 Lots: 1; 6; 12; 24; 25; 26; 27; 30; 31; 36; 38; 40; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73.

Block: 667 Lots: 1.

Block: 671 Lots: 1.

Block: 672 Lots: 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 35; 40; 41; 42; 43; 44; 46; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 69.

Block: 675 Lots: 1.

Block: 676 Lots: 11; 13; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 38; 42; 44; 45; 46; 48; 53; 59; 60; 61; 62; 63; 64; 66; 68; 70.

Block: 679 Lots: 1.

Block: 683 Lots: 1.

Block: 687 Lots: 1.

Block: 688 Lots: 26; 35; 37; 38; 39; 40; 41; 42; 44; 61.

Block: 691 Lots: 1; 44; 45; 46.

Block: 692 Lots: 12; 18; 19; 27; 32; 33; 34; 35; 37; 38; 39; 40; 41; 42; 43; 44; 45; 46; 48; 49; 50; 53; 55; 61; 63; 64; 65; 68; 69.

Block: 695 Lots: 1; 37; 38; 39; 40; 41; 42; 43; 45; 46.

Block: 696 Lots: 12; 13; 14; 15; 16; 18; 19; 20; 24; 31; 46; 48; 49; 53; 54; 55; 57; 58; 59.

Block: 699 Lots: 1.

Block: 700 Lots: 7; 12; 13; 14; 15; 16; 17; 18; 19; 20; 22; 32; 38; 45; 48; 50; 53; 58; 59; 60; 61; 62.

Block: 704 Lots: 7; 40; 41; 42; 43; 48; 49; 50; 51; 54; 59; 63; 65; 66.

Block: 706 Lots: 1; 20; 24; 101.

Block: 707 Lots: 1; 6; 7; 9; 11; 12; 16; 17; 29; 30; 31; 33; 34; 38; 40; 41; 42; 44; 46; 48; 53; 57.

Block: 710 Lots: 1; 16.

Block: 712 Lots: 1; 6; 13; 16; 18; 24; 28; 29; 30; 31; 32; 33; 34; 35; 37; 39; 41; 43; 45; 47; 49; 63.

Block: 715 Lots: 1.

Block: 716 Lots: 1; 9; 12; 14; 16; 18; 20; 25; 26; 27; 31; 33; 34; 35; 37; 38; 41; 45; 47; 48; 49; 50; 52; 55; 56; 58; 60; 62; 63; 64; 65; 66; 67.

Block: 717 Lots: 1; 30; 34; 36; 38; 40; 41; 43; 44; 45; 46; 48; 49; 50; 58; 61.

Block: 721 Lots: 1; 17; 21; 34; 39; 50; 52; 55; 61.

Block: 722 Lots: 1; 8; 9; 10; 11; 12; 15; 16; 17; 18; 19; 21; 22; 23; 24; 25; 26; 28; 29; 31; 32; 35; 36; 37; 38; 39; 40; 41; 42; 43; 46; 49; 51; 52; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 70; 152.

Block: 725 Lots: 1; 75; 100; 200.

Block: 726 Lots: 1.

Block: 727 Lots: 1; 7; 25; 28; 29; 31; 32; 33; 34; 40; 41; 42; 43; 44; 45; 46; 47; 48; 50; 52; 53; 54; 55.

Block: 735 Lots: 1; 15; 18; 20; 30; 35; 40; 50; 60; 65; 70; 72; 75; 80; 90; 98; 100; 110; 115; 117; 120; 127; 130.

Block: 736 Lots: 1; 11; 13; 23; 35; 40; 41; 42; 43; 44; 46; 47; 48; 50; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 67; 68; 69; 70; 71; 72; 73; 75; 76; 77; 78; 142.

Block: 745 Lots: 1; 17; 20; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 37; 39; 41; 42; 43; 44; 45; 46; 47; 48; 50; 51; 53; 57; 59; 60; 61; 62; 64; 65; 67; 69; 75; 153.

Block: 754 Lots: 1; 6; 8; 12; 14; 17; 27; 29; 30; 32; 34; 35; 36; 37; 38; 40; 45; 48; 50; 52; 57; 58; 68; 138.

Block: 762 Lots: 1; 8; 10; 20; 35; 50; 53; 55; 60; 70.

Block: 763 Lots: 1; 20; 24; 25; 28; 29; 31; 32; 34; 37; 39; 40; 42; 43; 44; 45; 50; 55; 62; 65; 67; 69; 158.

Block: 771 Lots: 1; 15; 40; 50; 110; 120; 130; 140; 145; 148; 150.

Block: 772 Lots: 1; 4; 12; 14; 16; 18; 19; 28; 30; 32; 35; 39; 40; 42; 43; 44; 47; 48; 49; 50; 51; 53; 57; 62; 151.

Block: 781 Lots: 6; 12; 16; 26; 27; 28; 29; 30; 31; 32; 34; 39; 41; 42; 43; 141.

Block: 788 Lots: 1; 9; 25; 31; 32.

Block: 796 Lots: 1; 24.

Block: 803 Lots: 5; 6; 9; 10; 30; 35; 38; 41; 56; 64; 67; 150; 192; 9999.

Block: 804 Lots: 1; 6; 50.

Block: 812 Lots: 1; 20; 26.

Block: 819 Lots: 1.

Block: 820 Lots: 1; 12; 29; 30; 32; 33; 34; 35; 36; 58.

Block: 827 Lots: 1; 12.

Block: 828 Lots: 1.

Block: 836 Lots: 3; 5; 16; 19; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73.

Block: 844 Lots: 1; 10; 12; 13; 23; 26; 29; 30; 31; 35; 38; 40; 46; 47; 48; 63; 65.

Block: 845 Lots: 1; 3; 5; 11; 12; 13; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 39; 40; 41; 42; 44; 45; 47; 48; 49; 50; 56; 57; 58; 59; 60; 61; 62; 63; 66; 67.

Block: 853 Lots: 1.

Block: 861 Lots: 1; 23; 29; 37; 43; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 63; 64; 65; 66; 67; 68; 71.

Block: 977 Lots: 1; 3.

Block: 978 Lots: 1; 7; 16; 19; 23; 30; 32.

Block: 979 Lots: 1; 5; 14; 18; 23; 31.

Block: 980 Lots: 1; 8; 19; 23; 36; 49; 75; 77; 84; 95; 107; 111; 120; 145; 150.

Block: 990 Lots: 1; 16; 21; 50; 69; 117; 138; 151; 153; 160; 269; 369.

Block: 991 Lots: 1; 6; 11; 13; 19; 31; 37; 38; 39; 41; 43; 44; 45; 47; 49; 50; 54; 61; 66; 68.

Block: 992 Lots: 1; 5; 7; 21; 23; 24; 26; 29; 32; 33; 34; 36; 37; 38; 40; 42; 47; 48; 49; 50; 51; 52; 53.

Block: 996 Lots: 1; 10; 11; 15; 17; 21; 28; 32; 36; 38; 39; 40; 49; 58; 62.

Block: 1007 Lots: 1; 6; 20; 29; 118; 172; 219; 220; 269.

Block: 1020 Lots: 1; 11; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 33; 34; 35; 36; 39; 40; 41; 42; 43; 44; 45; 47; 50; 52; 59; 147.

Block: 1025 Lots: 1; 16; 18; 20; 26; 43; 47; 49; 52; 100; 200.

Block: 1026 Lots: 1; 2; 3; 5; 6; 7; 10; 18; 22; 25; 27; 28; 30; 31; 33; 34; 35; 36; 37; 38; 39; 40; 42; 44; 45; 48; 50; 52; 64; 66.

Block: 1031 Lots: 1; 11; 62; 67; 71; 100.

Block: 1032 Lots: 1; 4; 6; 8; 11; 14; 25; 33; 37; 39; 40; 42; 44; 45; 46; 48; 50; 51; 52; 53; 54; 56; 58; 60.

Block: 1038 Lots: 1; 33; 34; 35.

Block: 1039 Lots: 1; 5; 7; 8; 9; 11; 12; 13; 14; 15; 16; 18; 19; 20; 24; 25; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 51; 52; 53; 55; 56; 57; 59; 60; 61; 67; 68; 69; 70; 71.

Block: 1045 Lots: 1; 12; 15; 17; 19; 20; 21; 22; 23; 24; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 39; 42; 48; 50; 51; 54; 147.

Block: 5778 Lots: 1.

Block: 5804 Lots: 2; 91.

Block: 5806 Lots: 2; 88; 97.

Area 2:

Block: 405 Lots: 1; 4; 5; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 19; 20; 21; 22; 23; 24; 27; 51; 56; 57; 58; 59; 60; 61; 62; 63; 64.

Block: 406 Lots: 1; 18; 21; 24; 50; 52; 67.

Block: 407 Lots: 1; 7; 8; 9; 10; 11; 12; 13; 25; 26; 32; 34; 35; 36; 38; 41; 52.

Block: 411 Lots: 1; 2; 3; 6; 7; 8; 9; 10; 11; 12; 13; 14; 24; 58; 60.

Block: 412 Lots: 1; 6; 15; 18; 19; 20; 21; 29; 34; 37; 41; 45; 48; 50; 51.

Block: 413 Lots: 1; 2; 7; 13; 14; 15; 21; 26; 27; 29; 33; 35; 36; 37; 38; 39; 40; 41; 42; 43; 45; 47; 50; 54; 58; 63; 64; 65.

Block: 417 Lots: 1; 10; 14; 21.

Block: 418 Lots: 1.

Block: 419 Lots: 1.

Block: 420 Lots: 1; 17; 19; 23; 27; 29; 31; 34; 37; 42; 45; 50; 52; 54; 55; 56; 58.

Block: 425 Lots: 1.

Block: 426 Lots: 1; 17; 36; 41; 44; 49.

Block: 427 Lots: 1; 7; 10; 12; 15; 17; 18; 21; 31; 37; 38; 40; 42; 46; 47; 52; 58; 61; 66; 69.

Block: 432 Lots: 1; 15; 25.

HISTORICAL NOTE

Section added L.L. 5/1994 § 2, eff. Apr. 18, 1994.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. b "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c added L.L. 28/1999 § 1, eff. June 28, 1999.

Subd. d amended L.L. 63/1999 § 1, eff. Oct. 18, 1999 and retroactive to June 28, 1999.

Subd. d added L.L. 28/1999 § 1, eff. June 28, 1999.

Subd. d open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. e added L.L. 45/2006 § 12, eff. Nov. 9, 2006. [See Note 1]

Subd. f added L.L. 45/2006 § 12, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 11. (a) By Local Law No. 5 for the year 1994, adopted on April 18, 1994, the council of the city of New York authorized an application for the designation of the Southwest Brooklyn economic development zone relative to certain land within the borough of Brooklyn.

(b) The city of New York has received economic development zone approval from New York state.

(c) By Local Law No. 28 for the year 1999, adopted on June 28, 1999, the boundaries of the Southwest Brooklyn economic development zone were revised.

(d) By Local Law No. 63 for the year 1999, adopted on October 18, 1999 and retroactive to June 28, 1999, the boundaries of the Southwest Brooklyn economic development zone were corrected.

(e) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Southwest Brooklyn economic

development zone is now known as the Southwest Brooklyn empire zone.

(f) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Southwest Brooklyn empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(g) The Southwest Brooklyn empire zone has been configured into one distinct and separate contiguous area. Such area is described by block and lot in subdivision f of section 22-710 of the administrative code of the city of New York, as added by section twelve of this local law.

(h) Accordingly, the city of New York is authorized to submit an application for redesignation of such area within the borough of Brooklyn as the Southwest Brooklyn empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(i) Pursuant to article 18-B of the General Municipal Law, the Southwest Brooklyn Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the Southwest Brooklyn Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

7

[Footnote 7]: *** Inadvertently transposed.

8

[Footnote 8]: *** Inadvertently dropped.

9

[Footnote 9]: *** Inadvertently dropped.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-711

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-711 North Shore zone.

a. There is20 hereby established in the borough of Staten Island an empire zone as follows:

BEGINNING at the point of intersection of the westerly U.S. pierhead line of the Upper New York Bay and the prolongation of the center line of Clifton Avenue; thence westerly along the center line of Clifton Avenue and its prolongation to the point where it meets the center line of Edgewater Street; thence northerly along the center line of Edgewater Street to the point where it meets the main line set of tracks of the Staten Island Rapid Transit Railway as such set of tracks appear on Sheet 21d of the Zoning Map of the New York City Planning Commission as amended effective December seventh, nineteen hundred eighty-nine (A-1563), as contained in the Zoning Resolution of the City of New York; thence southwesterly along said set of tracks to the point where it meets the prolongation of the center line of Mary St. Palma Drive; thence westerly along the center line of Mary St. Palma Drive and its prolongation to the point where it meets the center line of Richmond Road;

thence northerly along the center line of Richmond Road to the point where it meets the center line of Van Duzer Street; thence northerly along the center line of Van Duzer Street to the point where it meets the center line of Sands Street; thence easterly along the center line of Sands Street to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the center line of Victory Boulevard; thence northwesterly along the center line of Victory Boulevard to the point where it meets the center line of Montgomery Avenue; thence northerly along the center line of Montgomery Avenue to the point where it meets the center line of Fort Place; thence easterly along the center line of Fort Place to the point where it meets the center line of St. Marks Place, said line being the district boundary line between the R4 and C4-2 zoning districts as it appears on Sheet 21c of the Zoning Map of the New York City Planning Commission as amended

effective June thirtieth, nineteen hundred eighty-seven (A-1471), as contained in the Zoning Resolution of the City of New York; thence northwesterly along the center line of St. Marks Place to the point where it meets the center line of Hamilton Avenue, said line being the district boundary line between the R4 and C4-2 zoning districts as it appears on Sheet 21c as described aforesaid; thence westerly along the center line of Hamilton Avenue to the point where it meets the center line of Daniel Low Terrace; thence southerly along the center line of Daniel Low Terrace to the point where it meets the center line of Crescent Avenue; thence westerly along the center line of Crescent Avenue to the point where it meets the center line of Jersey Street; thence northerly along the center line of Jersey Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Clove Road; thence southerly along the

center line of Clove Road to the point where it meets the center line of Castleton Avenue; thence westerly along the center line of Castleton Avenue to the point where it meets the center line of Jewett Avenue; thence northerly along the center line of Jewett Avenue to the point where it meets the center line of Richmond Terrace; thence northwesterly along the center line of Richmond Terrace to the point where it meets the main line set of tracks to the Staten Island Railway as such set of tracks appear on Sheet 21a of the Zoning Map of the New York City Planning Commission as amended effective August twenty-sixth, nineteen hundred ninety-two (A-1639), as contained in the Zoning resolution of the City of New York, said line being the district boundary line between the M1-1 and the R4 zoning districts as it appears on Sheet 21a as described aforesaid; thence westerly along said set of tracks to a point 150 feet to the west of Park Avenue as measured from its westerly street line, said line being the district

boundary line between the M3-1 and the R4 and the M3-1 and C4-2 zoning districts as they appear on Sheet 21a as described aforesaid; thence northeasterly along a line 150 feet to the west of Park Avenue and running parallel thereto to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 100 feet to the west of Port Richmond Avenue as measured from its westerly street line, said line being the district boundary line between the M3-1 and C4-2 zoning districts as it appears on Sheet 21a as described aforesaid; thence southerly along a line 100 feet to the west of Port Richmond Avenue and running parallel thereto to a point 300 feet to the south of Richmond Terrace as measured from its southerly street line, said line being the district boundary line between the M3-1 and C4-2 zoning districts as it appears on Sheet 21a as described aforesaid; thence westerly along a line beginning 300 feet to the south of Richmond Terrace and ending

100 feet to the south of Richmond Terrace as such line appears on Sheet 21a as described aforesaid to the point where such line meets the center line of Maple Avenue, said line being the district boundary line between the M3-1 and C4-2 and the M1-1 and C4-2 zoning districts as they appear on Sheet 21a as described aforesaid; thence southerly along the center line of Maple Avenue to a point 150 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 150 feet to the south of Richmond Terrace to the point where it meets the center line of Faber Street; thence northerly along the center line of Faber Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Nicholas Avenue; thence southerly along the center line of Nicholas Avenue to the point where it meets the main line set of tracks of the Staten Island Railway as such set of tracks

appear on Sheet 20c of the Zoning Map of the New York City Planning Commission as amended effective November fourteenth, nineteen hundred eighty-five (A-1435), as contained in the Zoning Resolution of the City of New York, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 20c as described aforesaid; thence southwesterly along said set of tracks to the point where it meets the center line of John Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence northerly along the center line of John Street to a point 250 feet to the south of Richmond Terrace as measured from its southerly street line, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along a line 250 feet to the south of Richmond Terrace and running parallel thereto to the point whre it meets the

center line of Morningstar Road, said line being the district boundary line between the M1-1 and R3-2 zoning

districts as it appears on Sheet 20c as described aforesaid; thence northeasterly along the center line of Morningstar Road to the point where it meets the center line of Richmond Terrace, said line being the district boundry line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Van Pelt Avenue; thence southerly along the center line of Van Pelt Avenue to a point 100 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 100 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of DeHart Avenue; thence southerly along the center line of DeHart Avenue to a point 150 feet to the south of Richmond Terrace as measured from its southerly street

line; thence westerly along a line 150 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of Mersereau Avenue; thence northerly along the center line of Mersereau Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point where it meets the prolongation of the former Linfield Avenue, as said line appears on Sheet 20c as described aforesaid; thence southerly along the prolongation of the former Linfield Avenue to a point where it meets the southwesterly spear of the Staten Island Railway, as such set of tracks appear on Sheet 20c as described aforesaid; thence southwesterly along said set of tracks to the point where it meets the center line of the Goethals Road North; thence northwesterly along the center line of Goethals Road North to the point where it meets the center line of Western Avenue; thence southwesterly along the center line of Western Avenue to the point

where it meets the center line of the Staten Island Expressway; thence northwesterly along the center line of the Staten Island Expressway to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill; thence northerly and easterly along said U.S. pierhead and bulkhead line to the point where said U.S. pierhead and bulkhead line divides; thence easterly along the southerly U.S. pierhead line of the Kill Van Kull to the point where said U.S. pierhead line converges with the U.S. bulkhead line; thence easterly along the southerly U.S. pierhead and bulkhead line of the Kill Van Kull to the point where said U.S. pierhead and bulkhead line divides; thence easterly along the southerly U.S. pierhead line of the Kill Van Kull to the point where it meets the westerly U.S. pierhead line of the Upper New York Bay; thence southerly along said U.S. pierhead line to the point and place of beginning.

There are two subzones: (1) BEGINNING at the point of intersection of the center line of South Avenue and the main line set of tracks of the Staten Island Railway as such set of tracks appear on Sheet 20c of the Zoning Map of the New York City Planning Commission as amended effective November fourteenth, nineteen hundred eighty-five (A-1435), as contained in the Zoning Resolution of the City of New York; thence easterly along said set of tracks to the point where it meets the center line of Lockman Avenue; thence southerly along the center line of Lockman Avenue to the point where it meets the center line of Continental Place, said line being the district boundary line between the R3-2 and R4 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along the center line of Continental Place to the point where it meets the center line of South Avenue; thence northerly along the center line of South Avenue to the point and place of beginning. (2) BEGINNING at the point of intersection of the northerly street line of Victory Boulevard and the westerly terminus of Victory Boulevard, said point having the coordinates of south 26439.357 and west 44700.119, as such coordinates and bearings were established by the United States Coast and Geodetic Survey for the borough of Staten Island; thence westerly along a line 496.41 feet in length to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill, said line running south 88 degrees 21 minutes 25 seconds west; thence northerly along said U.S. pierhead and bulkhead line for 920 feet, said line running north 10 degrees 10 minutes 00 seconds east; thence easterly along a line 568 feet long, said line running south 79 degrees 50 minutes 00 seconds east; thence northerly along a line 380 feet long, said line running north 16 degrees 10 minutes 00 seconds east; thence westerly along a line 46.55 feet long, said line running north 66 degrees 29 minutes 46 seconds west; thence northerly along a line 21.6 feet long, said line running north 24 degrees 11 minutes 45 seconds east; thence westerly along a line 61.3 feet long, said line running north 65 degrees 48 minutes 15 seconds west; thence southerly along a line 22.44 feet long, said line running south 28 degrees 53 minutes 14 seconds west; thence westerly along a line 55 feet long, said line running north 66 degrees 29 minutes 46 seconds west; thence southwesterly along a line 201.62 feet long, said line running south 61 degrees 31 minutes 16 seconds west; thence westerly along a line 290

feet long to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill, said line running north 79 degrees 50 minutes 00 seconds west; thence northerly along said U.S. pierhead and bulkhead line for 664.6 feet, said line running north 10 degrees 10 minutes 00 seconds east, then north 23 degrees 25 minutes 00 seconds east and then north 36 degrees 40 minutes 00 seconds east; thence easterly along a line 855.62 feet long, said line running south 73 degrees 46 minutes 20 seconds east; thence southerly along a line 110 feet long, said line running south 36 degrees 40 minutes 00 seconds west; thence southeasterly along a line 554.33 feet long, said line running south 48 degrees 18 minutes 04 seconds east; thence southwesterly along a line 233.57 feet long, said line running south 36 degrees 40 minutes 00 seconds west; thence southeasterly along a line 369.49 feet long, said line running south 48 degrees 18 minutes 04 seconds east; thence southwesterly along a line 20 feet long, said line running south 41 degrees 41 minutes 56 seconds west; thence southeasterly along a line 64 feet long to the point where it meets the northerly street line of Victory Boulevard, said line running south 48 degrees 18 minutes 04 seconds east; thence westerly along the northerly street line of Victory Boulevard to the point and place of beginning, said line running 1431.23 feet long and running south 60 degrees 28 minutes 22 seconds west and then south 77 degrees 03 minutes 53 seconds west.

b. The empire zone shall not include any lands under water.

c. In accordance with general municipal law section nine hundred sixty-nine (c), the city of New York hereby requests that the commissioner of the New York state department of economic development approve a proposed revision of the boundaries of the North Shore empire zone. Upon approval by the commissioner of the proposed revision, the boundaries of the zone as set forth in subdivision a of this section shall be superseded by the revised boundaries of the zone as set forth in subdivision d of this section.

d.* There is21 hereby established in the borough of Staten Island an empire zone as follows:

(1) The North Shore empire zone shall include the following blocks and lots:

Block 52; Lot 76.

Block 62; Lots: 11; 27; 86; 89; 94; 101; 103; and 106.

Block 67; Lots: 98; 107; and 111.

Block 69; Lots: 103; 104; 105; 106; 107; 108; 109; 110; 111; 113; 115; 117; 118; 119; 124; and 128.

Block 70; Lots: 20; 24; 29; 30; 31; and 32.

Block 149; Lot 1.

Block 150; Lot 17.

Block 157; Lots: 1; 4; and 9.

Block 158; Lots: 1; 2; 3; and 6.

Block 186; Lots: 1; 4; 6; 8; 10; 13; 30; 33; 37; 40; 42; 43; 44; 45; 59; 221; and 237.

Block 187; Lots: 32; 36; 38; 42; 52; 85; 91; 136; 138; 141; 148; 152; 158; and 200.

Block 188; Lots: 8; 25; 28; and 33.

Block 199; Lot 29.

Block 200; Lots: 23; 24; 26; and 29.

Block 201; Lots: 32; 37; 38; and 42.

Block 498; Lots: 1; 5; 40; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 73; and 74.

Block 500; Lots: 1; 10; 11; 12; and 24.

Block 502; Lot 1.

Block 503; Lots: 1; 19; and 32.

Block 505; Lots: 1; 4; 8; 9; 11; 12; 14; 17; 18; and 100.

Block 507; Lots: 1; 5; 6; 12; 17; and 18.

Block 508; Lots: 1; and 9.

Block 509; Lots; 1; 4; 8; and 34.

Block 510; Lots: 1; 4; 5; 9; and 43.

Block 511; Lots: 1; 3; and 7.

Block 1003; Lots: 16; 20; 21; 22; 23; 25; and 26.

Block 1006; Lots: 60; and 62.

Block 1008; Lots: 22; 27; 30; 32; 33; 35; 36; 38; 40; 43; 45; 46; and 49.

Block 1074; Lot 43.

Block 1150; Lots: 1; 17; 21; 37; 41; and 72.

Block 1151; Lots: 1; 3; 4; 8; 16; 23; 25; 27; 35; 36; 37; 40; 43; 44; 48; 49; 52; 53; 54; 55; 58; 61; and 62.

Block 1155; Lots: 10; 14; 15; 16; 17; 19; 21; 43; 52; 55; 58; 61; 65; 71; 79; 85; 120; 133; and 134.

Block 1157; Lots: 1; 17; 28; 31; and 60.

Block 1158; Lots: 1; 7; 100; and 104.

Block 1159; Lot 100.

Block 1160; Lots: 54; 55; 59; and 62.

Block 1161; Lots: 1; 150; 177; 179; and 182.

Block 1172; Lot 177.

Block 1256; Lots: 39; 40; 69; 81; 86; 87; and 92.

Block 1348; Lot 1.

Block 2705; Lot 250.

Block 2822; Lots: 1; 20; 21; 22; 23; 24; 26; and 30.

Block 2823; Lots: 1; 8; 9; 10; 11; 17; 25; 26; 29; 30; and 31.

Block 2825; Lots: 1; 8; 19; 24; 25; and 36.

Block 2827; Lots: 50; 54; and 59.

Block 2841; Lots: 91; 138; 143; 158; 166; 168; 220; and 230.

(2) The North Shore empire zone shall include, in addition to the blocks and lots set forth in paragraph one of this subdivision, the following territory: BEGINNING at the point where the easterly U.S. pierhead and bulkhead line of the Arthur Kill intersects the Arthur Kill Rail Bridge; thence southeasterly along the main line set of tracks of the Staten Island Railway to a point 150 feet to the east of the easterly U.S. pierhead and bulkhead line of the Arthur Kill; thence southwesterly along a line 150 feet to the east of said U.S. pierhead and bulkhead line to the point where it meets the intersection of the Old Place/Staten Island Expressway; thence northwesterly along the centerline of the Old Place/Staten Island Expressway to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill; thence northeasterly along said U.S. pierhead and bulkhead line to the point and place of beginning.

e. Upon approval by the commissioner of the New York State department of economic development of the request to revise the boundaries of the North Shore empire zone, the boundaries of the zone set forth in subdivisions a and d of this section shall be superseded by the boundaries of the zone set forth in subdivision f of this section.

f. There is hereby established in the borough of Staten Island an empire zone as follows:

(1) BEGINNING at the point of intersection of the westerly U.S. pierhead line of the Upper New York Bay and the prolongation of the center line of Clifton Avenue; thence westerly along the center line of Clifton Avenue and its prolongation to the point where it meets the westerly street line of Edgewater Street; thence southerly along the westerly street line of Edgewater Street to a point 102 feet to the south of Clifton Avenue as measured from its southerly street line; thence westerly along a line 102 feet to the south of Clifton Avenue and running parallel thereto to a point 102 feet to the west of Edgewater Avenue as measured from its westerly street line; thence southerly along a line 102 feet to the west of Edgewater Street and running parallel thereto to a point 147 feet to the south of Clifton Avenue as measured from its southerly street line; thence westerly along a line 147 feet to the south of Clifton Avenue and running parallel thereto to a

point 444 feet to the west of Edgewater Street as measured from its westerly street line; thence northerly along a line 444 feet to the west of Edgewater Street and running parallel thereto to the point where it meets the southerly street line of Clifton Avenue; thence easterly along the southerly street line of Clifton Avenue to the point where it meets the center line of Edgewater Street; thence northerly along the center line of Edgewater Street to the point where it meets the northerly street line of Sylva Lane; thence westerly along the northerly street line of Sylva Lane to a point 184 feet to the west of Edgewater Street as measured from its westerly street line; thence northwesterly along a line 184 feet to the west of Edgewater Street and running parallel thereto to the point where it meets the southerly street line of Janins Lane; thence easterly along the southerly street line of Janins Lane to the point where it meets the center line of Edgewater Street; thence northerly along the center line of

Edgewater Street to the point where it meets the northerly street line of Janins Lane; thence westerly along the northerly street line of Janins Lane to the point where it meets the easterly street line of Bay Street; thence northerly along the easterly street line of Bay Street to the point where it meets the southerly street line of Lynhurst Avenue; thence easterly along the southerly street line of Lynhurst Avenue to the point where it meets the center line of Edgewater Street; thence northerly along the center line of Edgewater Street to the point where it meets the northerly street line of Lynhurst Avenue; thence westerly along the center line of Lynhurst Avenue to the point where it meets the easterly street line of Bay Street; thence northerly along the easterly street line of Bay Street to the point where it meets the southerly street line of Willow Avenue; thence easterly along the southerly street line of Willow Avenue to the point where it meets the center line of Edgewater Street; thence

northerly along the center line of Edgewater Street to the point where it meets the northerly street line of Willow Avenue; thence westerly along the northerly street line of Willow Avenue to the point where it meets the easterly street line of Bay Street; thence northerly along the easterly street line of Bay Street to the point where it meets the southerly street line of Camden Street; thence easterly along the southerly street line of Camden Street to the point where it meets the center line of Edgewater Street; thence northerly along the center line of Edgewater Street to the point where it meets the northerly street line of Camden Street; thence westerly along the northerly street line of Camden Street to the point where it meets the easterly street line of Bay Street; thence northerly along the easterly street line of Bay Street to the point where it meets the main line set of tracks of the Staten Island Rapid Transit Railway as such set of tracks appear on Sheet 21d of the Zoning Map of the New York

City Planning Commission as amended effective July eleventh, nineteen hundred ninety-six (A-1717), as contained in the Zoning Resolution of the City of New York; thence southwesterly along said set of tracks to the point where it meets westerly street line of Bay Street; thence southerly along the westerly street line of Bay Street to the point where it meets the northerly street line of Willow Avenue; thence westerly along the northerly street line of Willow Avenue to a point 240 feet to the west of Bay Street as measured from its westerly street line; thence southeasterly along a line 240 feet to the west of Bay Street and running parallel thereto to a point 208 feet to the south of Willow Avenue as measured from its southerly street line; thence southwesterly along a line 208 feet to the south of Willow Avenue and running parallel thereto the point where it meets the easterly street line of Langere Place; thence northeasterly along the easterly street line of Langere Place to the point where it meets the

northerly street line of Willow Avenue; thence westerly along the northerly street line of Willow Avenue to the point where it meets the easterly street line of Forest Street; thence northerly along the easterly street line of Forest Street to the point where it meets the end of Forest Street; thence westerly along the end of Forest Street to the point where it meets the westerly street line of Forest Street; thence southerly along the westerly street line of Forest Street to the point where it meets the northerly street line of Willow Avenue; thence westerly along the northerly street line of Willow Avenue to the point where it meets the easterly street line of Tompkins Avenue; thence northerly along the easterly street line of Tompkins Avenue to the point where it meets the main line set of tracks of the Staten Island Rapid Transit Railway as such set of tracks appear on Sheet 21d as described aforesaid; thence southerly along said set of tracks to the point where it meets the prolongation of the center

line of Mary St. Palma Drive; thence westerly along the center line of Mary St. Palma Drive and its prolongation to the point where it meets the center line of Richmond Road; thence northerly along the center line of Richmond Road to the point where it meets the center line of Van Duzer Street; thence northerly along the center line of Van Duzer Street to the point where it meets the center line of Sands Street; thence easterly along the center line of Sands Street to a point 236 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 236 feet to the west of Bay Street and running parallel thereto to the point where it meets the southerly street line of Wave Street; thence easterly along the southerly street line of Wave Street to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the northerly street line of Wave Street; thence westerly along the northerly street line of Wave

Street to a point 172 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 172 feet to the west of Bay Street and running parallel thereto to the point where it meets the southerly street line of Congress Street; thence easterly along the southerly street line of Congress Street to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the northerly street line of Congress Street; thence westerly along the northerly street line of Congress Street to a point 119 feet to the east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 119 feet to the east of Van Duzer Street and running parallel thereto to a point 46 feet to the north of Congress Street as measured from its northerly street line; thence westerly along a line 46 feet to the north of Congress Street and running parallel thereto to the point where it meets the easterly street

line of Van Duzer Street; thence northerly along the easterly street line of Van Duzer Street to a point 81 feet to the

north of Congress Street as measured from its northerly street line; thence easterly along a line 81 feet to the north of Congress Street and running parallel thereto to a point 119 feet to the east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 119 feet to the east of Van Duzer Street and running parallel thereto to the point where it meets the southerly street line of William Street; thence easterly along the southerly street line of William Street to a point 205 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 205 feet to the west of Bay Street and running parallel thereto to the point where it meets the southerly street line of Baltic Street; thence easterly along the southerly street line of Baltic Street to the point where it meets the center line of Bay Street; thence northerly along

the center line of Bay Street to the point where it meets the northerly street line of Baltic Street; thence westerly along the northerly street line of Baltic Street to a point 215 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 215 feet to the west of Bay Street and running parallel thereto to a point 110 feet to the north of Baltic Street as measured from its northerly street line; thence easterly along a line 110 feet to the north of Baltic Street and running parallel thereto to a point 115 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 115 feet to west of Bay Street and running parallel thereto to the point where it meets the southerly street line of Clinton Street; thence easterly along the southerly street line of Clinton Street to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the northerly street

line of Clinton Street; thence westerly along the northerly street line of Clinton Street to a point 128 feet to the west of Bay Street as measured from its westerly street line; thence northerly along a line 128 feet to the west of Bay Street and running parallel thereto to a point 131 feet to the north of Clinton Street as measured from its northerly street line; thence easterly along a line 131 feet to the north of Clinton Street and running parallel thereto to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to a point 266 feet to the south of Grant Street as measured from its southerly street line; thence westerly along a line 266 feet to the south of Grant Avenue and running parallel thereto to a point 170 to the west of Bay Street as measured from its westerly street line; thence northerly along a line 170 feet to the west of Bay Street and running parallel thereto to a point 210 feet to the south of Grant Street as measured from its

southerly street line; thence westerly along a line 210 feet to the south of Grant Street and running parallel thereto to a point 127 feet to the east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 127 feet to the east of Van Duzer Street and running parallel thereto to a point 183 feet to the south of Grant Street as measured from its southerly street line; thence westerly along a line 183 feet to the south of Grant Street and running parallel thereto to a point 100 feet to east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 100 feet to the east of Van Duzer Street and running parallel thereto to a point 28 feet to the south of Grant Street as measured from its southerly street line; thence westerly along a line 28 feet to the south of Grant Street and running parallel thereto to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the easterly street line of Van Duzer Street

to the point where it meets the southerly street line of Grant Street; thence easterly along the southerly street line of Grant Street to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the northerly street line of Grant Street; thence westerly along the northerly street line of Grant Street to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the easterly street line of Van Duzer to the point where it meets the southerly street line of St. Julian Place; thence easterly along the southerly street line of St. Julian Place to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where it meets the northerly street line of St. Julian Place; thence westerly along the northerly street line of St. Julian Place to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the

easterly street line of Van Duzer Street and then the southerly street line of the Van Duzer Street Extension to the point where it meets the center line of Bay Street; thence northerly along the center line of Bay Street to the point where

it meets the northerly street line of the Van Duzer Extension; thence westerly along the northerly street line of the Van Duzer Extension to the point where it meets the northerly street line of Swan Street; thence westerly along the northerly street line of Swan Street to a point 134 feet to the east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 134 feet to the east of Van Duzer Street and running parallel thereto to a point 77 feet to the north of Swan Street as measured from its northerly street line; thence easterly along a line 77 feet to the north of Swan Street and running parallel thereto to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the easterly street line of Van

Duzer Street to the point where it meets the southerly street line of Hannah Street; thence easterly along the southerly street line of Hannah Street to the point where it meets the westerly street line of Bay Street; thence northerly along the westerly street line of Bay Street to the point where it meets the northerly street line of Hannah Street; thence westerly along the northerly street line of Hannah Street to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the easterly street line of Van Duzer Street to a point 138 feet to the north of Hannah Street as measured from its the northerly street line; thence easterly along a line 138 feet to the north of Hannah Street and running parallel thereto to a point 100 feet to the east of Van Duzer Street as measured from its easterly street line; thence northerly along a line 100 feet to the east of Van Duzer Street and running parallel thereto to a point 135 feet to the south of the intersection Van Duzer Street and

Victory Boulevard; thence westerly along a line 135 feet to the south of the intersection of Van Duzer Street and Victory Boulevard and running parallel thereto to the point where it meets the easterly street line of Van Duzer Street; thence northerly along the easterly street line of Van Duzer Street to the point where it meets the southerly street line of Victory Boulevard; thence easterly along the southerly street line of Victory Boulevard to the point where it meets the westerly street line of Bay Street; thence southerly along the westerly street line of Bay Street to the point where it meets the center line of the eastern Bay Street (to the east of Tompkinsville Park); thence northerly along the center line of the eastern Bay Street to the point where it meets the center line of Victory Boulevard, said line being the district boundary line between the R3-2 and M1-1 zoning districts as it appears on Sheet 21c of the Zoning Map of the New York City Planning Commission as amended effective June

thirtieth, nineteen hundred eighty-seven (A-1471), as contained in the Zoning Resolution of the City of New York; thence northwesterly along the center line of Victory Boulevard to the point where it meets the center line of Montgomery Avenue; thence northerly along the center line of Montgomery Avenue to the point where it meets the center line of Fort Place; thence easterly along the center line of Fort Place to the point where it meets the center line of St. Marks Place, said line being the district boundary line between the R4 and C4-2 zoning districts as it appears on Sheet 21c as described aforesaid; thence northwesterly along the center line of St. Marks Place to the point where it meets the center line of Hamilton Avenue, said line being the district boundary line between the R4 and C4-2 zoning districts as it appears on Sheet 21c as described aforesaid; thence westerly along the center line of Hamilton Avenue to the point where it meets the center line of Daniel Low Terrace; thence southerly

along the center line of Daniel Low Terrace to the point where it meets the center line of Crescent Avenue; thence westerly along the center line of Crescent Avenue to the point where it meets the center line of Jersey Street; thence northerly along the center line of Jersey Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 53 feet to the east of York Avenue as measured from its easterly street line; thence southerly along a line 53 feet to the east of York Avenue and running parallel thereto to a point 136 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 136 feet south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of York Avenue; thence northerly along the easterly street line of York Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of

Richmond Terrace to the point where it meets the westerly street line of York Avenue; thence southerly along the westerly street line of York Avenue to a point 151 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 151 feet to the south of Richmond Terrace and running parallel thereto to a point

103 feet to the west of York Avenue as measured from its westerly street line; thence southerly along a line 103 feet to the west of York Avenue and running parallel thereto to a point 179 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 179 feet to the south of Richmond Terrace and running parallel thereto to a point 211 feet to the west of York Avenue as measured from its westerly street line; thence southerly along a line 211 feet to the west of York Avenue and running parallel thereto to the point where it meets the northerly street line of Van Buren Street; thence westerly along the northerly

street line of Van Buren Street to a point 231 feet to the west of York Avenue as measured from its westerly street line; thence northerly along a line 231 feet to the west of York Avenue and running parallel thereto to a point 109 feet to the north of Van Buren Street as measured from its northerly street line; thence westerly along a line 109 feet to the north of Van Buren Street and running parallel thereto to a point 376 feet to the west of York Avenue as measured from its westerly street line; thence northerly along a line 376 feet to the west of York Avenue and running parallel thereto to a point 49 feet to the south of Richmond Terrace as measured from its southerly street line; thence easterly along a line 49 feet to the south of Richmond Terrace and running parallel thereto to a point 364 feet to the west of York Avenue as measured from its westerly street line; thence northerly along a line 364 feet to the west of York Avenue and running parallel thereto to the point where it meets the center line

of Richmond Terrace; thence westerly along the center street line of Richmond Terrace to a point 404 feet to the west of York Avenue as measured from its westerly street line; thence southerly along a line 404 feet to the west of York Avenue and running parallel thereto to a point 107 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 107 feet to the south of Richmond Terrace and running parallel thereto to a point 484 feet to the west of York Avenue as measured from its westerly street line; thence northerly along a line 484 feet to the west of York Avenue and running parallel thereto to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 570 feet to the east of Franklin Avenue as measured from its easterly street line; thence southerly along a line 570 feet to the east of Franklin Avenue and running parallel thereto to a point 107 feet to the south of Richmond Terrace

as measured from its southerly street line; thence westerly along a line 107 feet to the south of Richmond Terrace and running parallel thereto to a point 545 feet to the east of Franklin Avenue as measured from its easterly street line; thence southerly along a line 545 feet to the east of Franklin Avenue and running parallel thereto to the point where it meets the northerly street line of Van Buren Street; thence westerly along the northerly street line of Van Buren Street to the point where it meets the easterly street line of Franklin Avenue; thence northerly along the easterly street line of Franklin Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Franklin Avenue; thence southerly along the westerly street line of Franklin Avenue to a point 90 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 90 feet to the

south of Richmond Terrace and running parallel thereto to a point 44 feet to the west of Franklin Avenue as measured from its westerly street line; thence southerly along a line 44 feet to the west of Franklin Avenue and running parallel thereto to a point 107 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 107 feet to the south of Richmond Terrace and running parallel thereto to a point 95 feet to the west of Franklin Avenue as measured from its westerly street line; thence southerly along a line 95 feet to the west of Franklin Avenue and running parallel thereto to the point where it meets the northerly street line of Van Buren Street; thence westerly along the northerly street line of Van Buren Street to a point 445 feet to the west of Franklin Avenue as measured from its westerly street line; thence northerly along a line 445 feet to the west of Franklin Avenue and running parallel thereto to a point 104 feet to the north of Van Buren Street

as measured from its northerly street line; thence westerly along a line 104 feet to the north of Van Buren Street and running parallel thereto to a point 234 feet to the east of Lafayette Street as measured from its easterly street line; thence southerly along a line 234 feet to the east of Lafayette Street and running parallel thereto to a point 85 feet to the north of Van Buren Street as measured from its northerly street line; thence westerly along a line 85 feet to the north of Van

Buren Street and running parallel thereto to a point 144 feet to the east of Lafayette Street as measured from its easterly street line; thence northerly along a line 144 feet to the east of Lafayette Street and running parallel thereto to a point 110 feet to the north of Van Buren Street as measured from its northerly street line; thence westerly along a line 110 feet to the north of Van Buren Street and running parallel thereto to a point 115 feet to the east of Lafayette Street as measured from its easterly street line;

thence southerly along a line 115 feet to the east of Lafayette Street and running parallel thereto to the point where it meets the northerly street line of Van Buren Street; thence westerly along the northerly street line of Van Buren Street to the point where it meets the easterly street line of Lafayette Street; thence northerly along the easterly street line of Lafayette Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Lafayette Street; thence southerly along the westerly street line of Lafayette Street to the point where it meets the northerly street line of Van Buren Street; thence westerly along the northerly street line of Van Buren Street to a point 93 feet to the west of Lafayette Street as measured from its westerly street line; thence northerly along a line 93 feet to the west of Lafayette Street and running parallel thereto to a point 114 feet to the north of

Van Buren Street as measured from its northerly street line; thence westerly along a line 114 feet to the north of Van Buren Street and running parallel thereto to a point 153 feet to the west of Lafayette Street as measured from its westerly street line; thence southerly along a line 153 feet to the west of Lafayette Street and running parallel thereto to a point 101 feet to the north of Van Buren Street as measured from its northerly street line; thence westerly along a line 101 feet to the north of Van Buren Street and running parallel thereto to the point where it meets the easterly street line of Clinton Avenue; thence northerly along the easterly street line of Clinton Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Clinton Avenue; thence southerly along the westerly street line of Clinton Avenue to a point 127 feet to the south of Richmond Terrace as measured from

its southerly street line; thence westerly along a line 127 feet to the south of Richmond Terrace and running parallel thereto to a point 36 feet to the west of Clinton Avenue as measured from its westerly street line; thence southerly along a line 36 feet to the west of Clinton Avenue and running parallel thereto to a point 182 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 182 feet to the south of Richmond Terrace and running parallel thereto to a point 72 feet to the east of Tysen Street as measured from its easterly street line; thence northerly along a line 72 feet to the east of Tysen Street and running parallel thereto to a point 191 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 191 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Tysen Street; thence northerly along the easterly street line of Tysen

Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Pelton Avenue; thence southerly along the westerly street line of Pelton Avenue to a point 114 feet to the north of Pelton Place as measured from its northerly street line; thence westerly along a line 114 to the north of Pelton Place and running parallel thereto to a point 106 feet to the west of Pelton Avenue as measured from its westerly street line; thence northerly along a line 106 feet to the west of Pelton Avenue and running parallel thereto to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Bement Avenue; thence southerly along the westerly street line of Bement Avenue to a point 162 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line

162 to the south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Elm Street; thence northerly along the easterly street line of Elm Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Elm Street; thence southerly along the westerly street line of Elm Street to a point 113 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 113 feet to the south of

Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of North Burgher Avenue; thence northerly along the easterly street line of North Burgher Avenue to the point where it meets the center line of Richmond Terrace; thence southwesterly along the center line of Richmond Terrace to the point where it meets the westerly street line of Broadway; thence southerly along the

westerly street line of Broadway to a point 346 feet to the south of Richmond Terrace as measured from its southerly street line; thence easterly along a line starting at a point 346 feet to the south of Richmond Terrace and ending at a point on the easterly street line of Van Street, said point being 626 feet to the south of Richmond Terrace as measured from its southerly street line and 398 feet to the west of Broadway as measured from its westerly street line; thence northerly along the easterly street line of Van Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Van Street; thence southerly along the westerly street line of Van Street to a point 640 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 640 feet to the south of Richmond Terrace and running parallel thereto to a point 100 feet to the west of Van

Street as measured from its westerly street line; thence northerly along a line 100 feet to the west of Van Street and running parallel thereto to a point 114 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 114 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Tompkins Court; thence northerly along the easterly street line of Tompkins Court to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Tompkins Court; thence southerly along the westerly street line of Tompkins Court to a point 175 feet to the south of Richmond Terrace as measured from its southerly street line; thence southwesterly along a line 175 feet to the southeast of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Alaska Street; thence

northerly along the easterly street line of Alaska Street to the point where it meets the center line of Richmond Terrace; thence southwesterly along the center line of Richmond Terrace to a point 115 feet to the west of Alaska Street as measured from its westerly street line; thence southerly along a line 115 feet to the west of Alaska Street and running parallel thereto to a point 150 feet to the south of Richmond Terrace as measured from its southerly street line; thence southwesterly along a line 150 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Taylor Street; thence northerly along the easterly street line of Taylor Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Clove Road; thence southerly along the center line of Clove Road to the point where it meets the center line of Castleton Avenue; thence

westerly along the center line of Castleton Avenue to the point where it meets the center line of Jewett Avenue; thence northerly along the center line of Jewett Avenue to the point where it meets the northerly street line of Bennett Street; thence westerly along the northerly street line of Bennett Street to a point 98 feet to the west of Richmond Terrace as measured from its westerly street line; thence northwesterly along a line 98 feet to the west of Richmond Terrace and running parallel thereto to the point where it meets the southerly street line of Heberton Avenue; thence easterly along the southerly street line of Heberton Avenue to the point where it meets the center line of Richmond Terrace; thence northerly along the center line of Richmond Terrace to the point where it meets the northerly street line of Heberton Avenue; thence westerly along the northerly street line of Heberton Avenue to a point 105 feet to the west of Richmond Terrace as measured from its westerly street line; thence

northwesterly along a line 105 feet to the west of Richmond Terrace and running parallel thereto to the point where it meets the main line set of tracks to the Staten Island Railway as such set of tracks appear on Sheet 21a of the Zoning Map of the New York City Planning Commission as amended effective August twenty-sixth, nineteen hundred ninety-two (A-1639), as contained in the Zoning resolution of the City of New York, said line being the district boundary line between the M1-1 and the R4 zoning districts as it appears on Sheet 21a as described aforesaid; thence westerly along said set of tracks to a point 150 feet to the west of Park Avenue as measured from its westerly street line,

said line being the district boundary line between the M3-1 and the R4 and the M3-1 and C4-2 zoning districts as they appear on Sheet 21a as described aforesaid; thence northeasterly along a line 150 feet to the west of Park Avenue and running parallel thereto to a point 95 feet to the southwest of Richmond Terrace as

measured from its southwesterly street line; thence northwesterly along a line 95 feet to the south of Richmond Terrace and running parallel thereto to a point 265 feet to the west of Park Avenue as measured from its westerly street line; thence northerly along a line 265 feet to the west of Park Avenue and running parallel thereto to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 100 feet to the west of Port Richmond Avenue as measured from its westerly street line, said line being the district boundary line between the M3-1 and C4-2 zoning districts as it appears on Sheet 21a as described aforesaid; thence southerly along a line 100 feet to the west of Port Richmond Avenue and running parallel thereto to a point 300 feet to the south of Richmond Terrace as measured from its southerly street line, said line being the district boundary line between the M3-1 and C4-2 zoning districts as it appears on Sheet 21a as described

aforesaid; thence westerly along a line beginning 300 feet to the south of Richmond Terrace and ending 100 feet to the south of Richmond Terrace as such line appears on Sheet 21a as described aforesaid to the point where such line meets the center line of Maple Avenue, said line being the district boundary line between the M3-1 and C4-2 and the M1-1 and C4-2 zoning districts as they appear on Sheet 21a as described aforesaid; thence southerly along the center line of Maple Avenue to a point 150 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 150 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of Faber Street; thence northerly along the center line of Faber Street to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Nicholas Avenue; thence southerly along the center line

of Nicholas Avenue to the point where it meets the main line set of tracks of the Staten Island Railway as such set of tracks appear on Sheet 20c of the Zoning Map of the New York City Planning Commission as amended effective November fourteenth, nineteen hundred eighty-five (A-1435), as contained in the Zoning Resolution of the City of New York, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 20c as described aforesaid; thence southwesterly along said set of tracks to the point where it meets the center line of John Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence northerly along the center line of John Street to a point 250 feet to the south of Richmond Terrace as measured from its southerly street line, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence

westerly along a line 250 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of Morningstar Road, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence northeasterly along the center line of Morningstar Road to the point where it meets the center line of Richmond Terrace, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Winant Street, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence southerly along the westerly street line of Winant Street to a point 521 feet to the north of La Salle Street as measured from its northerly street line; thence westerly along a line 521

feet to the north of La Salle Street and running parallel thereto to a point 87 feet to the west of Winant Street as measured from its westerly street line; thence southerly along a line 87 feet to the west of Winant Street and running parallel thereto to a point 165 feet to the north of La Salle Street as measured from its northerly street line; thence easterly along a line 165 feet to the north of La Salle Street and running parallel thereto to the point where it meets the westerly street line of Winant Street; thence southerly along the westerly street line of Winant Street to a point 20 feet to the north of La Salle Street as measured from its northerly street line; thence westerly along a line 20 feet to the north of La Salle Street and running parallel thereto to a point 95 feet to the west of Winant Street as measured from its westerly

street line; thence southerly along a line 95 feet to the west of Winant Street and running parallel thereto to the point where it meets the southerly street line of La

Salle Street; thence easterly along the southerly street line of La Salle Street to the point where it meets the westerly street line of Winant Street; thence southerly along the westerly street line of Winant Street to its end; thence westerly along the end of Winant Street to a point 67 feet to the west of the prolongation of the westerly street line of Winant Street; thence southerly along a line 67 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to a point 190 feet to the north of Hooker Place as measured from its northerly street line; thence westerly along a line 190 feet to the north of Hooker Place and running parallel thereto to a point 97 feet to the west of the prolongation of the westerly street line of Winant Street; thence southerly along a line 97 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to a point 133 feet to the north of Hooker Place as measured from its

northerly street line; thence westerly along a line 133 feet to the north of Hooker Place and running parallel thereto to a point 82 feet to the west of the prolongation of the westerly street line of Winant Street; thence southerly along a line 82 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to the point where it meets the northerly street line of Hooker Place; thence westerly along the northerly street line of Hooker Place to a point 119 feet to the west of the prolongation of the westerly street line of Winant Street; thence southerly along a line 119 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to a point 135 feet to the south of Hooker Place as measured from its southerly street line; thence easterly along a line 135 feet to the south of Hooker Place and running parallel thereto to a point 79 feet to the west of the prolongation of the westerly street line of Winant Street;

thence southerly along a line 79 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to a point 84 feet to the north of Walker Street as measured from its northerly street line; thence westerly along a line 84 feet to the north of Walker Avenue and running parallel thereto to a point 107 feet to the west of the prolongation of the westerly street line of Winant Street; thence southerly along a line 107 feet to the west of the prolongation of the westerly street line of Winant Street and running parallel thereto to the point where it meets the northerly street line of Walker Street; thence westerly along the northerly street line of Walker Street to a point 729 feet to the east of Lake Avenue as measured from its easterly street line; thence northerly along a line 729 feet to the east of Lake Avenue and running parallel thereto to a point 49 feet to the north of Walker Street as measured from its northerly street line; thence westerly along a line 49

feet to the north of Walker Street and running parallel thereto to a point 604 feet to the east of Lake Avenue as measured from its easterly street line; thence southerly along a line 604 feet to the east of Lake Avenue and running parallel thereto to the point where it meets the northerly street line of Walker Street; thence westerly along the northerly street line of Walker Street to the point where it meets the easterly street line of Lake Avenue; thence northerly along the easterly street line of Lake Avenue to the point where it meets the main line set of tracks of the Staten Island Railway as such set of tracks appear on Sheet 20c as described aforesaid; thence easterly along such set of tracks to a point 157 feet to the east of Lake Avenue as measured from its easterly street line; thence northerly along a line 157 feet to the east of Lake Avenue and running parallel thereto to a point 305 feet to the north of the main line set of tracks of the Staten Island Railway as such set of tracks appear on

Sheet 20c as described aforesaid, said line being the district boundary line between the M3-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence easterly along a line 305 feet to the north of such set of tracts and running parallel thereto to the point where it meets the easterly street line of Housman Avenue; thence northerly along the easterly street line of Housman Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the westerly street line of Lake Avenue, said line being the district boundary line between the M3-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence southerly along the westerly street line of Lake Avenue to a point 149 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 149 feet to the

south of Richmond Terrace and running parallel thereto to a point 66 feet to

the west of Lake Avenue as measured from its westerly street line; thence northerly along a line 66 feet to the west of Lake Avenue and running parallel thereto to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 120 feet to the west of Lake Avenue as measured from its westerly street line; thence southerly along a line 120 feet to the west of Lake Avenue and running parallel thereto to a point 123 feet to the south of Richmond Terrace; thence westerly along a line 123 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the easterly street line of Simonson Avenue; thence northerly along the easterly street line of Simonson Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Van Pelt Avenue; thence southerly along the center line of Van Pelt Avenue to a point 100

feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 100 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of DeHart Avenue; thence southerly along the center line of DeHart Avenue to a point 150 feet to the south of Richmond Terrace as measured from its southerly street line; thence westerly along a line 150 feet to the south of Richmond Terrace and running parallel thereto to the point where it meets the center line of Mersereau Avenue; thence northerly along the center line of Mersereau Avenue to the point where it meets the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to a point 120 feet to the west of Holland Avenue as measured from its westerly street line; thence southerly along a line 120 feet to the west of Holland Avenue and running parallel thereto to the point where it meets the center line of Macormac Place, said line being the

district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along the prolongation of Macormac Place to a point 389 feet to the west of Holland Avenue as measured from its westerly street line; thence southerly along a line 389 feet to the west of Holland Avenue and running parallel thereto to a point 436 feet to the north of the northwesterly spear of the Staten Island Railway, as such set of tracks appear on Sheet 20c as described aforesaid; thence easterly along a line 436 feet to the north of said set of tracks to the point where it meets the westerly street line of Holland Avenue; thence southerly along the westerly street line of Holland Avenue to the point where it meets the northwesterly spear of the Staten Island Railway, as such set of tracks appear on Sheet 20c as described aforesaid; thence westerly along such set of tracts to a point 1,769 feet to the west of Holland Avenue as measured from its westerly street line; thence

northerly along a line 1,769 feet to the west of westerly street line of Holland Avenue and running parallel thereto to the point where it meets the center line or Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the prolongation of the former Linfield Avenue, as said line appears on Sheet 20c as described aforesaid; thence southerly along the prolongation of the former Linfield Avenue to a point where it meets the southwesterly spear of the Staten Island Railway, as such set of tracks appear on Sheet 20c as described aforesaid; thence southwesterly along said set of tracks to the point where it meets the center line of the Goethals Road North; thence northwesterly along the center line of Goethals Road North to the point where it meets the center line of Western Avenue; thence southwesterly along the center line of Western Avenue to the point where it meets the center line of the Staten Island Expressway; thence northwesterly along the center line of

the Staten Island Expressway to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill; thence northerly and easterly along said U.S. pierhead and bulkhead line to the point where said U.S. pierhead and bulkhead line divides; thence easterly along the southerly U.S. pierhead line of the Kill Van Kull to the point where said U.S. pierhead line converges with the U.S. bulkhead line; thence easterly along the southerly U.S. pierhead and bulkhead line of the Kill Van Kull to the point where said U.S. pierhead and bulkhead line divides; thence easterly along the southerly U.S. pierhead line of the Kill Van Kull to the point where it meets the westerly U.S. pierhead line of the Upper New York Bay; thence southerly along said U.S. pierhead line to the point and place of beginning.

(2) BEGINNING at the point of intersection of the center line of South Avenue and the main line set of tracks of

the Staten Island Railway as such set of tracks appear on Sheet 20c of the Zoning Map of the New York City Planning Commission as amended effective November fourteenth, nineteen hundred eighty-five (A-1435), as contained in the Zoning Resolution of the City of New York; thence easterly along said set of tracks to the point where it meets the easterly street line of Grandview Avenue; thence southerly along the center line of Grandview Avenue to the point where it meets the center line of Roxbury Avenue; thence easterly along the center line of Roxbury Avenue to the point where it meets the center line of Lockman Avenue; thence southerly along the center line of Lockman Avenue to the point where it meets the center line of Continental Place, said line being the district boundary line between the R3-2 and R4 zoning districts as it appears on Sheet 20c as described aforesaid; thence westerly along the center line of Continental Place to the point where it meets the center line of South Avenue; thence northerly along the center line of South Avenue to the point and place of beginning.

(3) BEGINNING at the point of intersection of the northerly street line of Victory Boulevard and the westerly terminus of Victory Boulevard, said point having the coordinates of south 26439.357 and west 44700.119, as such coordinates and bearings were established by the United States Coast and Geodetic Survey for the borough of Staten Island; thence westerly along a line 496.41 feet in length to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill, said line running south 88 degrees 21 minutes 25 seconds west; thence northerly along said U.S. pierhead and bulkhead line for 920 feet, said line running north 10 degrees 10 minutes 00 seconds east; thence easterly along a line 568 feet long, said line running south 79 degrees 50 minutes 00 seconds east; thence northerly along a line 380 feet long, said line running north 16 degrees 10 minutes 00 seconds east; thence westerly along a line 46.55 feet long, said line running north 66 degrees 29 minutes 46 seconds west; thence northerly along a line 21.6 feet long, said line running north 24 degrees 11 minutes 45 seconds east; thence westerly along a line 61.3 feet long, said line running north 65 degrees 48 minutes 15 seconds west; thence southerly along a line 22.44 feet long, said line running south 28 degrees 53 minutes 14 seconds west; thence westerly along a line 55 feet long, said line running north 66 degrees 29 minutes 46 seconds west; thence southwesterly along a line 201.62 feet long, said line running south 61 degrees 31 minutes 16 seconds west; thence westerly along a line 290 feet long to the point where it meets the easterly U.S. pierhead and bulkhead line of the Arthur Kill, said line running north 79 degrees 50 minutes 00 seconds west; thence northerly along said U.S. pierhead and bulkhead line for 664.6 feet, said line running north 10 degrees 10 minutes 00 seconds east, then north 23 degrees 25 minutes 00 seconds east and then north 36 degrees 40 minutes 00 seconds east; thence easterly along a line 855.62 feet long, said line running south 73 degrees 46 minutes 20 seconds east; thence southerly along a line 110 feet long, said line running south 36 degrees 40 minutes 00 seconds west; thence southeasterly along a line 554.33 feet long, said line running south 48 degrees 18 minutes 04 seconds east; thence southwesterly along a line 233.57 feet long, said line running south 36 degrees 40 minutes 00 seconds west; thence southeasterly along a line 369.49 feet long, said line running south 48 degrees 18 minutes 04 seconds east; thence southwesterly along a line 20 feet long, said line running south 41 degrees 41 minutes 56 seconds west; thence southeasterly along a line 64 feet long to the point where it meets the northerly street line of Victory Boulevard, said line running south 48 degrees 18 minutes 04 seconds east; thence westerly along the northerly street line of Victory Boulevard to the point and place of beginning, said line running 1431.23 feet long and running south 60 degrees 28 minutes 22 seconds west and then south 77 degrees 03 minutes 53 seconds west.

(4) BEGINNING at the point of intersection of the easterly street line of Grand View Avenue and the southerly street line of Davidson Street; thence easterly along the southerly street line of Davidson Street to the point where it meets the westerly street line of Andros Avenue; thence southerly along the westerly street line of Andros Avenue and its prolongation to a point 227 feet to the south of Davidson Street as measured from its southerly street line; thence westerly along a line 227 feet to the south of Davidson Street and running parallel thereto to a point 40 feet to the west of the prolongation of the westerly street line of Andros Avenue; thence southerly along a line 40 feet to the west of the prolongation of the westerly street line of Andros Avenue and running parallel thereto to the point where it meets the northerly street line of Anderson Place; thence westerly along the northerly street line of Anderson Place to a point 92 feet to the east of Grand View Avenue as measured from its easterly street line; thence northerly along a line 92 feet to the east of Grand View Avenue and running parallel thereto to a point 25 feet to the north of Anderson Place as measured from its northerly street line; thence westerly along a line 25 feet to the north of Anderson Place and running

parallel thereto to the point where it meets the easterly street line of Grand View Avenue; thence northerly along the easterly street line of Grand View Avenue to the point and place of beginning.

(5) BEGINNING at the point of intersection of the southerly street line of Pelton Place and the center line of Elisabeth Avenue; thence easterly along the southerly street line of Pelton Place to a point 125 feet to the east of Elisabeth Avenue as measured from its easterly street line; thence southerly along a line 125 feet to the east of Elizabeth Avenue and running parallel thereto to a point 120 feet to the south of Pelton Place as measured from its southerly street line; thence westerly along a line 120 feet to the south of Pelton Place and running parallel thereto to a point 100 feet to the west of Elizabeth Avenue as measured from its westerly street line; thence northerly along a line 100 feet to the west of Elizabeth Avenue and running parallel thereto to the point where it meets the southerly street line of Pelton Place; thence easterly along the southerly street line of Pelton Place to the point and place of beginning.

(6) BEGINNING at the point of intersection of the southerly street line of Chestnut Avenue and the Staten Island Rapid Transit Railway as such set of tracks appear on Sheet 21d of the Zoning Map of the New York City Planning Commission as amended effective July eleventh, nineteen hundred ninety-six (A-1717), as contained in the Zoning Resolution of the City of New York; thence southerly along such set of tracks to a point 334 feet to the south of Chestnut Avenue as measured from its southerly street line; thence westerly along a line 334 feet to the south of Chestnut Avenue and running parallel thereto to the point where it meets the easterly street line of Tompkins Avenue; thence northerly along the easterly street line of Tompkins Avenue to the point where it meets the southerly street line of Chestnut Avenue; thence easterly along the southerly street line of Chestnut Avenue to the point and place of beginning.

(7) BEGINNING at the point of intersection of the westerly street line of Tompkins Avenue and a point 282 feet to the north of Chestnut Avenue as measured from its northerly street line; thence southerly along the westerly street line of Tompkins Avenue to a point 185 feet to the north of Chestnut Avenue as measured from its northerly street line; thence westerly along a line 185 feet to the north of Chestnut Avenue and running parallel thereto to a point 106 feet to the west of Tompkins Avenue as measured from its westerly street line; thence northerly along a line 106 feet to the west of Tompkins Avenue and running parallel thereto to a point 282 feet to the north of Chestnut Avenue as measured from its northerly street line; thence easterly along a line 282 feet to the north of Chestnut Avenue and running parallel thereto to the point and place of beginning.

The following areas shall not be included:

(1) BEGINNING at the point of intersection of the center line of Hamilton Avenue and the center line of Richmond Terrace; thence southeasterly along the center line of Richmond Terrace to the point where it meets the center line of Wall Street; thence westerly along the center line of Wall Street to a point 113 feet to the southwest of Richmond Terrace as measured from its southwesterly street line; thence northwesterly along a line 113 feet to the southwest of Richmond Terrace and running parallel thereto to a point 135 feet to the north of Wall Street as measured from its northerly street line; thence southwesterly along a line 135 feet to the northwest of Wall Street and running parallel thereto to a point 52 feet to the northeast of Stuyvesant Place as measured from its northeasterly street line; thence northwesterly along a line 52 feet to the northeast of Stuyvesant Place and running parallel thereto to a point 91 feet to the south of Hamilton Avenue as measured from its southerly street line; thence westerly along a line 91 feet to the south of Hamilton Avenue and running parallel thereto to the point where it meets the center line of Stuyvesant Place; thence northwesterly along the center line of Stuyvesant Place to the point where it meets the center line of Hamilton Avenue; thence easterly along the center line of Hamilton Avenue to the point and place and beginning.

(2) BEGINNING at the point of intersection of the center line of Schuyler Street and the center line of Richmond Terrace; thence southeasterly along the center line of Richmond Terrace to the point where it meets the center line of Nick La Porte Place; thence westerly along the center line of Nick La Porte Place to the point where it meets the center line of Stuyvesant Place; thence northwesterly along the center line of Stuyvesant Place to the point where it meets the center line of Schuyler Street; thence northeasterly along the center line of Stuyvesant Place to the

point and place of beginning.

(3) BEGINNING at the point of intersection of the center line of Hyatt Street and the center line of Central Avenue; thence easterly along the center line of Hyatt Street to the point where it meets the center line of Stuyvesant Place; thence southerly along the center line of Stuyvesant to a point 220 feet to the south of Hyatt Street as measured from its southerly street line; thence westerly along a line 220 feet to the south of Hyatt Street and running parallel thereto to the point where it meets the center line of Central Avenue; thence northerly along the center line of Central Avenue to the point and place of beginning.

(4) BEGINNING at the point of intersection of the center line of Tompkins Avenue and the center line of Hill Street; thence westerly along the center line of Hill Street to a point 333 feet to the west of Tompkins Avenue as measured from its westerly street line, said line being the district boundary line between the R5 and R3-2 zoning districts as it appears on Sheet 21d of the Zoning Map of the New York City Planning Commission as amended effective July eleventh, nineteen hundred ninety-six (A-1717), as contained in the Zoning Resolution of the City of New York; thence northerly along a line 333 feet to the west of Tompkins Avenue and running parallel thereto to a point 810 feet to the north of Hill Street as measured from its northerly street line; thence easterly along a line 810 feet to the north of Hill Street and running parallel thereto to the point where it meets the center line of Tompkins Avenue; thence southerly along the center line of Tompkins Avenue to the point and place and beginning, said being the district boundary line between the R5 and R3-2 zoning districts as it appears on Sheet 21d as described aforesaid.

(5) BEGINNING at the point of intersection of the center line of Hill Street and a point 267 feet to the west of Tompkins Avenue as measured from its westerly street line; thence southerly along a line 267 feet to the west of Tompkins Avenue and running parallel thereto to a point 302 feet to the south of Hill Street as measured from its southerly street line; thence westerly along a line 302 feet to the south of Hill Street and running parallel thereto to a point 581 feet to the west of Tompkins Street as measured from its westerly street line; thence northerly along a line 581 feet to the west of Tompkins Street and running parallel thereto to the point where it meets the center line of Hill Street; thence easterly along the center line of Hill Street to the point and place of beginning.

(6) BEGINNING at the point of intersection of the center line of Taylor Avenue and the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Clove Avenue, said line being the district boundary line between the M1-1 and R3-2 zoning districts as it appears on Sheet 21a of the Zoning Map of the New York City Planning Commission as amended effective August twenty-sixth, nineteen hundred ninety-two (A-1639), as contained in the Zoning resolution of the City of New York; thence northerly along the center line of Clove Avenue and its prolongation to the point where it meets the southerly U.S. pierhead line of the Kill Van Kull; thence easterly along said U.S. pierhead line to the point where it meets the prolongation of the center line of Taylor Avenue; thence southerly along the center line of the prolongation of Taylor Avenue to the point and place of beginning.

(7) BEGINNING at the point of intersection of the center line of Faber Street and the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Sharpe Avenue; thence northerly along the center line of Sharpe Avenue and its prolongation to the point where it meets the southerly U.S. pierhead and bulkhead line of the Kill Van Kull; thence easterly along said U.S. pierhead and bulkhead line to the point where it meets the prolongation of the center line of Faber Street; thence southerly along the center line of the prolongation of Faber Street to the point and place of beginning.

(8) BEGINNING at the point of intersection of the center line of Van Name Avenue and the center line of Richmond Terrace; thence westerly along the center line of Richmond Terrace to the point where it meets the center line of Van Pelt Avenue, said line being the district boundary line between the M3-1 and R3-2 zoning districts as it appears on Sheet 20c of the Zoning Map of the New York City Planning Commission as amended effective November fourteenth, nineteen hundred eighty-five (A-1435), as contained in the Zoning Resolution of the City of New York; thence northerly along the center line of Van Pelt Avenue and its prolongation to the point where it meets the southerly

U.S. pierhead and bulkhead line of the Kill Van Kull; thence easterly along said U.S. pierhead and bulkhead line to the point where it meets the prolongation of the center line of Van Name Avenue; thence southerly along the prolongation of the center line of Van Name Avenue to the point and place of beginning.

(9) The empire zone shall not include any lands under water.

g. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision h of this section, the boundaries of the zone set forth in subdivision f of this section shall be superseded by subdivision h of this section.

h. There is hereby established in the borough of Staten Island an empire zone consisting of the following blocks and lots:

Area 1:

Block: 2705 Lots: 1; 225, 250.

Area 2:

Block: 1205 Lots: 1; 8; 13; 19; 27.

Block: 1206 Lots: 1; 23; 30; 60.

Block: 1208 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 15; 20; 24; 26; 28; 30; 51; 87; 92; 95.

Block: 1301 Lots: 1.

Block: 1309 Lots: 1; 2.

Block: 1318 Lots: 9.

Block: 1338 Lots: 1.

Area 3:

Block: 1070 Lots: 54; 62; 65; 68; 71; 79.

Block: 1105 Lots: 1; 26; 51.

Block: 1107 Lots: 1; 7; 20; 24; 31; 36; 55; 100.

Block: 1109 Lots: 1; 8; 14; 18; 23; 25; 28; 31; 41; 47.

Block: 1116 Lots: 1; 4; 7; 10; 12; 13; 16; 19; 24; 26; 28; 30; 40; 75; 105; 109; 110.

Block: 1118 Lots: 40; 41; 42.

Block: 1121 Lots: 85; 86; 91; 92; 95; 98; 99; 101; 104; 105.

Block: 1123 Lots: 51; 52.

Block: 1125 Lots: 59; 62; 65.

Block: 1150 Lots: 1; 17; 21; 37; 41.

Block: 1151 Lots: 1; 3; 4; 8; 16; 23; 25; 27; 35; 36; 37; 40; 43; 44; 48; 49; 52; 53; 54; 55; 58; 61; 62.

Block: 1155 Lots: 9; 14; 15; 16; 17; 19; 21; 43; 52; 55; 58; 61; 65; 71; 79; 80; 85; 120; 133; 134.

Block: 1157 Lots: 1; 17; 28; 31; 60.

Block: 1158 Lots: 1; 103; 105; 112.

Block: 1159 Lots: 1; 100; 110.

Block: 1160 Lots: 51; 54; 55; 62; 68.

Block: 1161 Lots: 1; 10; 43; 148; 149; 150; 177; 179; 182.

Area 4:

Block: 185 Lots: 468; 501; 509; 511; 513; 514; 515; 516; 520; 523; 525; 526; 527; 531; 536; 539; 548; 564; 568; 572; 575; 576; 578; 750.

Block: 194 Lots: 1; 15; 21; 25; 27; 29; 30; 34; 36; 41; 43; 44; 46; 47; 48; 54; 56; 57; 58; 59; 60; 62; 64; 67; 68; 70; 72; 74; 77; 90; 95; 96; 98; 99; 100; 105; 120; 122; 128; 130; 160; 270.

Block: 205 Lots: 1; 11; 22; 27; 32; 34; 36; 39; 42; 44; 46; 48; 51; 53; 56; 58; 63; 68; 70; 72; 74; 79; 82; 86; 89; 92; 98; 100; 106; 110; 118; 121; 126; 129; 132; 150; 156; 158; 163; 166; 200.

Block: 1003 Lots: 14; 16; 20; 22; 23; 24; 25; 26; 31; 35; 38; 40; 42.

Block: 1004 Lots: 19.

Block: 1006 Lots: 28; 32; 56; 60.

Block: 1008 Lots: 22; 27; 30; 36; 37; 38; 40; 43; 45; 46; 49.

Block: 1068 Lots: 1; 9; 14; 17; 18; 20; 44; 45; 60; 67; 72; 87; 90; 93; 96; 125.

Block: 1070 Lots: 1; 18; 20; 22; 25; 28; 31.

Block: 1073 Lots: 61.

Area 5:

Block: 1 Lots: 1; 6; 8; 9; 10; 17; 18; 19; 21; 30; 51; 55; 60; 100; 216; 220; 245; 250; 255; 256; 275; 7501.

Block: 2 Lots: 1; 5; 10; 20; 45; 599; 601; 726; 746; 754; 759; 767; 775; 778; 800; 801; 830; 9999.

Block: 3 Lots: 1; 15; 22; 24; 28; 31; 40; 55; 56.

Block: 4 Lots: 1; 10; 11; 21; 69; 87; 90; 93.

Block: 5 Lots: 1; 3; 5; 7; 10; 13; 35; 39; 42; 45; 51; 57; 65; 68; 71; 74; 87; 92; 95; 99; 103; 111; 113; 115; 118; 120; 122; 124.

Block: 6 Lots: 1; 2; 3; 7; 8; 9; 10; 12; 14; 18; 21; 129; 131; 132; 135; 136; 138; 140; 141; 143; 146; 150; 151; 152; 153.

Block: 7 Lots: 1; 12; 50; 58; 60; 63; 70; 80; 81; 83; 86.

Block: 8 Lots: 1; 11; 14; 16; 19; 25; 34; 40; 41; 43; 45; 46; 60; 70; 86; 92; 99; 150.

Block: 9 Lots: 1; 6; 9; 17; 22; 28.

Block: 10 Lots: 1; 19.

Block: 11 Lots: 1; 3; 4; 7; 8; 20; 49; 50; 51; 52; 53; 54; 55.

Block: 12 Lots: 1.

Block: 13 Lots: 1; 6; 8; 60; 64; 68; 71; 73; 75; 78; 79; 80; 81; 82; 92; 100; 103; 104; 116; 119; 121; 123; 124; 127.

Block: 14 Lots: 1; 6; 7; 9; 13; 16; 18; 21; 24; 29; 32; 88; 90; 93; 96; 99; 102; 103; 104; 105; 108.

Block: 15 Lots: 1; 5; 8; 10; 12; 14; 17; 20; 23; 27; 29; 31; 35; 39; 47; 53; 62; 64; 65; 67; 68; 71; 74; 78; 84; 92; 94; 95; 96; 98; 102; 104; 138; 139; 141; 162.

Block: 16 Lots: 1; 4; 7; 10; 12; 13; 14; 15; 16; 19; 22; 25; 28; 29; 30; 31; 32; 34; 35; 37; 38; 39; 40; 41; 43; 45; 46; 47; 50; 54; 68; 98; 101; 102; 103; 104; 105; 106; 107; 108; 109; 110; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 122; 123; 124; 125; 142; 145; 146; 147; 148; 149; 150.

Block: 22 Lots: 1; 70; 87; 89; 91; 93; 97; 101; 104; 105; 107; 110; 112; 116; 118; 120; 123; 125; 127; 129; 135; 137; 139; 141; 143; 145; 149; 166; 169; 171; 200; 225.

Block: 30 Lots: 1; 2; 4; 5; 7; 8; 10; 11; 13; 14; 17; 18; 22; 23; 25; 26; 28; 30; 33; 37; 39; 40; 42; 45; 49; 50; 53; 54; 55; 57; 58; 60; 61; 62; 64; 65.

Block: 31 Lots: 1; 3; 5; 7; 9; 11; 14; 17; 19; 21; 23; 24; 28; 29; 30; 32; 33; 34; 35; 41; 45; 46; 47; 50; 53.

Block: 32 Lots: 1; 3; 5; 8; 9; 11; 12; 14; 25; 27; 28; 31; 32; 33; 35; 36; 38; 39; 41; 47.

Block: 50 Lots: 60; 61; 63; 66; 67; 68; 69; 71; 74; 75; 76; 81; 83; 86; 87; 89; 91; 93; 95; 97; 99; 104; 106; 108.

Block: 51 Lots: 1; 30; 80; 147; 148; 153; 154; 168; 169; 170; 171; 172; 176; 177; 178; 179; 181; 183; 188; 191; 193; 195; 197; 199; 202; 205; 207; 209; 212; 214; 282; 450.

Block: 52 Lots: 76.

Block: 62 Lots: 11; 27; 89; 101; 103; 106.

Block: 67 Lots: 98; 107; 111; 130; 142.

Block: 68 Lots: 1; 35; 40; 60; 70; 80; 125.

Block: 69 Lots: 103; 104; 105; 106; 107; 108; 110; 111; 113; 115; 117; 118; 119; 124; 128.

Block: 70 Lots: 20; 24; 29; 30; 31; 32.

Block: 75 Lots: 1; 49; 59; 60; 100; 150.

Block: 149 Lots: 1; 5.

Block: 157 Lots: 1; 4; 9.

Block: 158 Lots: 1; 2; 3; 6.

Block: 184 Lots: 1; 33; 80; 100; 163; 188; 225; 248; 254; 256; 275; 280; 300; 315; 330; 360; 400.

Block: 185 Lots: 1; 10; 16; 20; 21; 25; 27; 28; 29; 30; 31; 33; 35; 37; 38; 43; 45; 48; 49; 52; 100; 101; 118; 127; 129; 130; 132; 133; 134; 135; 150; 152; 153; 170; 171; 172; 175; 176; 177; 178; 179; 185; 187; 235; 276; 386; 390; 391; 9997; 9998.

Block: 186 Lots: 1; 10; 13; 30; 33; 37; 40; 42; 43; 44; 45; 51; 52; 53; 54; 59; 221.

Block: 187 Lots: 32; 33; 34; 35; 37; 39; 42; 52; 85; 136; 138; 141; 148; 152; 158; 200.

Block: 188 Lots: 8; 25; 28; 33.

Block: 487 Lots: 42; 60; 64; 75; 80; 110; 112; 300; 310.

Block: 488 Lots: 1; 9; 18; 26; 31; 53; 65; 71; 78; 157; 162; 164; 175; 201; 206; 250.

Block: 489 Lots: 1; 5; 16; 19; 22; 24; 25; 46; 48.

Block: 490 Lots: 1; 4; 19; 22; 24; 26; 37; 45; 47; 49.

Block: 491 Lots: 1; 11; 26; 29; 32; 37; 41; 42; 46.

Block: 492 Lots: 1; 3; 4; 5; 6; 7; 9; 10; 11; 12; 16; 29; 31; 45; 48.

Block: 493 Lots: 3; 7; 8; 9; 10; 11; 12; 39; 40; 42; 43.

Block: 494 Lots: 1; 5; 6; 7; 9; 10; 12; 14; 15; 18; 19; 21; 24; 30; 41; 42; 70.

Block: 496 Lots: 1; 10; 39; 40; 49; 50; 51; 52; 54; 58; 59; 99; 101; 104; 105; 107; 108; 109; 110; 114; 215; 275.

Block: 497 Lots: 1; 7; 9.

Block: 498 Lots: 1; 5; 40; 58; 59; 60; 61; 62; 63; 64; 65; 66; 67; 68; 69; 70; 71; 72; 73; 74.

Block: 500 Lots: 1; 10; 11; 12; 24.

Block: 502 Lots: 1.

Block: 503 Lots: 1; 19; 32.

Block: 505 Lots: 1; 4; 8; 9; 11; 12; 14; 17; 18; 22; 49; 51; 100.

Block: 507 Lots: 1; 5; 6; 12; 17; 18.

Block: 508 Lots: 1; 9.

Block: 509 Lots: 1; 4; 8; 26; 34.

Block: 510 Lots: 1; 4; 5; 9; 43.

Block: 511 Lots: 1; 3; 7.

Block: 512 Lots: 1; 7; 11; 14; 16; 19; 21; 25; 26; 27; 29; 31; 34; 36; 39; 41; 44; 50; 51; 53; 55; 57; 59; 60; 61; 64; 65; 66; 67; 68; 69; 70; 74.

Block: 513 Lots: 1; 2; 3; 4; 5; 19; 29; 33; 34; 35; 36; 38; 39; 41; 43; 44; 45; 46; 47; 50; 51; 52; 53; 54; 55; 56; 57; 60; 61; 64; 65; 66; 69; 71; 72; 73; 74; 75; 76; 77; 79; 80; 81; 83; 85; 87; 92; 94; 96; 100; 140; 141.

Block: 521 Lots: 1; 7; 9; 17; 19; 20; 21; 22; 28; 35; 36; 37; 41; 42; 43; 50; 53; 57; 59; 62; 63; 65; 67; 69; 70; 72; 74; 75; 76; 79; 83; 86; 89; 90; 91; 92; 95; 98; 100; 102; 105; 106; 107; 108; 109; 110; 111; 113; 114; 115; 119; 120; 121; 124; 127; 134.

Block: 522 Lots: 1; 4; 7; 15; 16; 17; 18; 20; 34; 41; 42; 44; 46; 50; 58; 60; 62; 63; 65; 67; 69; 72; 73; 74; 75; 79; 82; 83; 84; 85; 86; 93; 94; 96; 98; 99; 110; 120.

Block: 523 Lots: 1; 2.

Block: 524 Lots: 1; 3; 4; 7; 10; 12; 14; 15; 17; 18; 19; 21; 23; 24; 27; 28; 29; 30; 31; 32; 34; 35; 37; 39; 40; 43; 44; 45; 48; 49; 50; 51; 52; 60; 100.

Block: 525 Lots: 1; 2; 3; 4; 5; 6; 7; 11; 12; 16; 17; 20; 21; 24; 27; 28; 35; 36; 37; 41; 43; 44; 45; 46; 47; 48; 49; 50; 51; 52.

Block: 526 Lots: 1; 2; 3; 4; 5; 6; 11; 14; 16; 17; 19; 21; 25; 27; 28; 29; 41; 43; 52; 53; 55; 57; 59; 61; 63; 68; 69; 70; 71; 72; 74; 76; 77; 78; 79; 80; 81; 82; 83.

Block: 527 Lots: 1; 5; 8; 49; 50; 52; 55; 59; 61; 63; 64; 65; 66; 68; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 83; 84; 85; 86; 87; 88; 89; 90; 91; 92; 93; 94; 95; 96; 97; 98; 99; 100; 101; 102; 103; 104; 105; 106; 107; 108; 109; 110; 111; 112; 113; 114; 116; 118; 119; 121; 124; 125; 150; 155; 156; 157; 158; 159; 160; 161; 162; 163; 164; 165; 166; 167; 168; 169; 170; 171; 172; 173; 174.

Block: 528 Lots: 1; 3; 4; 7; 8; 10; 12; 16; 17; 18; 20; 22; 26; 28; 30; 31; 32; 34; 36; 38; 40; 42; 43; 45; 48; 50; 53; 55; 56; 58; 59; 61.

Block: 529 Lots: 1; 2; 4; 5; 7; 8; 9; 12; 13; 14; 15; 17; 19; 20; 21; 22; 25; 26; 27; 28; 29; 31; 32; 34; 35; 41; 44; 45; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 59; 60; 61; 62; 63; 65.

Block: 530 Lots: 1; 2; 3; 4; 5; 7; 10; 13; 14; 15; 17; 18; 20; 23; 25; 28; 35; 37; 39; 41; 43; 45; 47; 49; 52; 54; 56; 58; 60; 61; 62; 63; 64; 65; 66; 67; 70.

Block: 531 Lots: 1; 7; 8; 9; 11; 12; 14; 16; 17; 20; 23; 25; 27; 29; 32; 36.

Block: 532 Lots: 3; 5; 6; 7; 8; 9; 10; 11; 15; 16; 18; 19; 20; 21; 22; 23; 25; 28.

Block: 533 Lots: 1; 2; 3; 4; 7; 9; 10; 12; 14; 18; 19; 20; 21; 36; 40; 41.

Block: 534 Lots: 1; 49; 61; 75; 84; 88; 120; 300.

Block: 537 Lots: 1; 2; 3; 4; 5; 6; 7; 9; 10; 17; 25; 28; 31.

Block: 538 Lots: 1; 2; 3; 4; 5; 7; 9; 11; 12; 22.

Block: 539 Lots: 1; 5; 10; 11; 12; 13; 15; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 32; 34; 50.

Block: 540 Lots: 1; 5; 6; 8; 9; 11; 14; 15; 18; 19; 23; 24; 25; 27; 28; 31; 32; 37; 38; 43.

Block: 541 Lots: 1; 2; 4; 7; 8; 9; 10; 11; 12; 13; 14; 15; 17; 18; 19; 20; 21; 22; 26; 27; 29; 32; 33; 36; 37; 38; 39; 41; 42; 44; 45; 46; 47; 48; 49; 51; 52; 53; 54; 55; 57; 59.

Block: 545 Lots: 16; 24; 30; 50; 100; 110.

Block: 556 Lots: 1; 4; 6; 9; 11; 16; 19; 80; 100; 130; 132; 133; 134; 135; 136; 138; 140; 141; 142; 143; 144; 148; 150; 151; 152; 153; 154; 156; 158; 159; 160; 161; 162; 164; 166; 167; 168; 169; 170; 171; 177; 180; 181; 182; 183; 184; 185; 186; 187; 188; 189; 190; 191; 193; 194; 195; 196; 197; 198; 200; 202; 203; 206; 209; 211; 214; 216; 217; 218; 220; 221; 222; 223; 225; 226; 228; 230; 231; 233; 234; 236; 237; 240; 241; 243; 244; 246; 247; 248; 250; 252; 254; 255; 257; 258; 260; 261; 263; 264; 266; 267; 269; 276; 279; 288; 289; 292; 293; 295; 296; 298; 299; 300; 302; 303; 310.

Block: 557 Lots: 1; 3; 4; 12; 16; 17; 18; 22; 23; 24.

Block: 558 Lots: 1; 14; 17; 20; 21; 24; 27; 28; 29; 32; 33; 35; 37.

Block: 559 Lots: 1; 3; 9; 13; 16; 18; 19; 23; 24; 27; 30; 31; 32; 33; 35; 36; 38; 40; 41; 42.

Block: 560 Lots: 23; 25; 26; 27; 28; 29; 31; 32; 33; 34; 35; 36; 37; 38; 41; 42; 43; 44; 46; 47; 48; 49; 52; 53; 55; 58; 61; 62; 63; 64; 67; 68; 69; 70; 71; 72; 73; 74; 144; 145; 169.

Block: 561 Lots: 1; 3; 4; 5; 7; 9; 13; 14; 18; 19; 20; 21; 22; 23; 24; 31; 36; 39; 40; 43; 44; 46; 47; 48.

Block: 562 Lots: 1; 2; 3; 6; 7; 9; 11; 14; 15; 16; 18; 20; 25; 27; 28; 30; 31; 33; 35; 36; 37; 38; 40; 41; 42; 43; 44; 46; 48; 49; 51; 52; 54; 72; 73; 74; 75; 76; 77; 79; 80; 81; 83; 85; 86; 89; 91; 92; 93; 94; 96; 98; 150.

Block: 563 Lots: 1; 4; 6; 7; 8; 9; 10; 11; 12; 14; 15; 16; 17; 18; 20; 21; 23; 24; 26; 27; 29; 30; 32; 33; 35; 36; 38; 41; 43; 45; 46; 48; 49; 52; 53; 54; 59; 82; 85; 87; 88; 90; 91; 93; 94; 96; 98; 99; 101; 102; 105; 108; 111; 113; 114; 116; 117; 119; 121; 122; 123; 124; 126; 127; 130; 132; 133; 137; 138; 139; 140.

Block: 564 Lots: 1; 2; 3; 5; 8; 9; 10; 11; 13; 18; 20; 22; 25; 27; 29; 30; 35.

Block: 633 Lots: 1; 5; 7; 11; 12; 15; 16; 17; 18; 21; 22; 24; 27; 29; 36; 38; 42; 44; 46; 48; 49; 50; 51; 52; 53; 55; 58; 61; 63; 65; 67; 72; 75; 78; 79; 80; 81; 84; 85; 87; 88.

Block: 634 Lots: 1; 3; 4; 5; 6; 9; 10; 16; 17; 18; 19; 22; 23; 26; 27; 28.

Block: 635 Lots: 1.

Block: 637 Lots: 1; 5; 8; 9; 10; 12; 23; 24; 25; 26; 29; 31; 33; 34; 35; 36; 42; 45; 47; 48; 49; 50; 51; 52; 53; 54.

Block: 638 Lots: 1; 2; 3; 7; 8; 11; 12; 13; 14; 18; 25; 28; 29; 30; 31; 35; 36; 37; 38; 39; 44; 46; 47; 49; 102.

Block: 640 Lots: 1; 4; 7; 9; 11; 16; 17; 18; 19.

Block: 641 Lots: 1; 3; 4; 6; 8; 9; 10; 11; 22; 23; 27; 29; 30; 32; 33; 35.

Block: 644 Lots: 1; 9; 15; 16; 17; 18; 26; 27; 28; 29; 31; 35.

Block: 646 Lots: 1.

Block: 2820 Lots: 1; 5; 30; 32; 90; 95; 105; 110; 119; 120; 132; 134; 140; 9998; 9999.

Block: 2822 Lots: 1; 20; 21; 22; 23; 24; 26; 30.

Block: 2823 Lots: 1; 8; 9; 10; 11; 17; 25; 26; 29; 30; 31.

Block: 2825 Lots: 1; 8; 10; 16; 19; 24; 25; 36.

Block: 2827 Lots: 50; 54; 59.

Block: 2829 Lots: 31.

Block: 2830 Lots: 150; 155.

Block: 2836 Lots: 1; 3; 5; 7; 9; 10; 11; 12; 13; 14; 17; 24; 25; 26; 29; 31; 33; 36.

Block: 2837 Lots: 1; 4; 5; 6; 9; 12; 15; 18; 20; 23; 26; 29; 33; 38; 40; 43; 44; 46; 48; 50; 53; 56; 59.

Block: 2838 Lots: 1; 7; 10; 13; 15; 18; 21; 23; 25; 29; 32; 34; 37; 40; 43.

Block: 2839 Lots: 1; 4; 5; 6; 7; 8; 9; 10; 11; 12; 14; 15; 16; 17; 20; 22; 23; 24; 26; 27; 28; 29; 31; 33; 36; 41; 58; 63; 66; 67; 68; 69; 70; 71; 72; 75; 78; 80; 82; 84; 86; 88; 91; 92; 95; 98; 100; 105; 108; 109; 110; 113; 114; 115; 116; 117; 120; 122; 124; 126; 130; 133; 135; 137; 140; 141; 142; 143; 144; 145; 147; 149; 150; 151; 152; 153; 154; 155; 156; 160; 165; 167; 169; 171; 174; 249.

Block: 2840 Lots: 1; 4; 7; 9; 11; 14; 15; 17; 19; 20; 21; 23; 25; 26; 28; 30; 33; 36; 41; 44; 50; 55; 57; 59; 61; 64; 67; 70; 76; 78; 79; 80; 81; 82; 83; 84; 85; 86; 90; 100; 105; 107; 108; 109; 110; 111; 113; 115; 116; 117; 119; 120; 122; 127; 130; 133; 136; 140; 141; 144; 145; 146; 148; 149; 150; 151; 152; 157; 166; 168; 169; 200; 220; 242; 245; 246; 247; 248; 249; 251; 260; 261; 262; 263; 264; 265; 270; 271; 272; 273; 274; 277; 278; 279; 280; 281; 282; 283; 284; 285; 290; 292; 293; 294; 295; 300; 302; 304; 306; 308; 311; 400; 401; 403; 404; 405; 406; 407; 408; 409; 410; 411; 412; 413; 414; 415; 416; 417; 418; 419; 420; 422; 423; 424; 425; 426; 427; 428; 429; 430; 431; 432; 433; 435.

Block: 2841 Lots: 1; 3; 6; 7; 8; 12; 14; 15; 16; 22; 33; 39; 42; 44; 45; 50; 67; 91; 134; 138; 143; 158; 162; 166; 168; 200; 210; 212; 214; 220; 225; 230; 240.

Block: 2846 Lots: 12.

Block: 2867 Lots: 1; 7; 9; 11; 13; 15; 17; 19; 21; 22; 23; 25; 28; 33; 40; 100; 130; 133; 135; 138; 140; 143; 145; 150; 162; 165; 167; 170; 172; 175; 177; 180; 185; 187; 190; 195; 199; 202; 205; 208; 210; 214; 234; 236; 239; 241; 264; 266; 338; 340; 342; 344; 346; 348; 350; 352; 354; 356; 358; 360; 362; 364; 366; 368; 370; 372; 374; 376; 378; 380; 382; 385; 388; 390; 393; 395; 420; 422; 425; 427; 430; 432; 436; 439; 441; 444; 446; 449; 451.

Block: 2868 Lots: 1; 3; 5; 7; 10; 12; 14; 16; 18; 20; 22; 24; 26; 28; 30; 32; 33; 35; 37; 40; 43; 45; 47; 50; 52; 54; 56; 59; 61; 63; 65; 67; 70; 80; 85; 120; 122; 124.

Block: 2869 Lots: 1; 14; 23; 80; 85; 86; 87; 88; 89; 92; 93; 94; 95; 98; 99; 100; 102; 103; 104; 105; 106; 107; 110; 112; 114; 165.

Block: 2871 Lots: 1.

Block: 2873 Lots: 1; 5; 8; 11; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 34; 40; 130; 131.

Block: 2876 Lots: 1; 4; 7; 9; 12; 14; 16; 18; 25.

Block: 2877 Lots: 1; 3; 4; 6; 7; 8; 10; 11; 14; 15; 17; 18; 25; 48; 105; 107; 110; 111; 113; 116; 118; 121; 123; 126; 127; 130; 133; 135; 137; 139; 140; 142; 143.

Block: 2922 Lots: 10; 20; 150.

Block: 2965 Lots: 4.

Block: 20000 Lots: 9999.

Block: 20001 Lots: 9999.

HISTORICAL NOTE

Section amended "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section added L.L. 5/1994 § 2, eff. Apr. 18, 1994

Subd. a superseded by subd. f per subd. e.

Subd. a amended L.L. 91/1995 § 1, eff. Dec. 19, 1995

Subd. c added L.L. 62/1997 § 1, eff. July 14, 1997

Subd. d superseded by subd. f per subd. e.

Subd. d added L.L. 62/1997 § 1, eff. July 14, 1997

Subds. e, f added L.L. 7/2002 § 9, eff. June 13, 2002. [See Note]

Subd. g added L.L. 45/2006 § 14, eff. Nov. 9, 2006. [See Note 1]

Subd. h added L.L. 45/2006 § 14, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 7/2002:

Section 1. By Local Law No. 5 for the year 1994, adopted on April 18, 1994, the council of the City of New York authorized an application for the designation of the North Shore economic development zone relative to certain land within Richmond County.

§ 2. The City of New York has received economic development zone approval from New York State.

§ 3. By Local Law No. 91 for the year 1995, adopted on December 19, 1995, the North Shore economic development zone was expanded.

§ 4. By Local Law No. 62 for the year 1997, adopted on July 14, 1997, the North Shore economic development zone was expanded a second time.

§ 5. It is the desire of the council of the City of New York to authorize an application to revise the North Shore economic development zone, now called the North Shore empire zone, to include 7.7 acres, and to exclude 8.3 acres, located in Richmond County in the City of New York.

§ 6. The City of New York is hereby authorized to submit an application to revise the North Shore empire zone to include the property described in section seven of this local law and to exclude the property described in section eight

of this local law.

§ 7. The boundaries of the North Shore empire zone, as described in Local Law No. 5 for the year 1994, Local Law No. 91 for the year 1995 and Local Law No. 62 for the year 1997, shall be expanded to include the properties generally described as follows:

Beginning at the point of intersection of the southerly line of Clifton Avenue and the westerly street line of Edgewater Street; thence southerly along the westerly street line of Edgewater Street to a point 102 feet to the south of Clifton Avenue as measured from its southerly street line; thence westerly along a line 102 feet to the south of Clifton Avenue and running parallel thereto to a point 102 feet to the west of Edgewater Avenue as measured from its westerly street line; thence southerly along a line 102 feet to the west of Edgewater Street and running parallel thereto to a point 147 feet to the south of Clifton Avenue as measured from its southerly street line; thence westerly along a line 147 feet to the south of Clifton Avenue and running parallel thereto to a point 444 feet to the west of Edgewater Street as measured from its running parallel thereto to a point 444 feet to the west of Edgewater Street as measured from its westerly street line; thence northerly along a line 444 feet to the west of Edgewater Street and running parallel thereto to the point where it meets the southerly street line of Clifton Avenue; thence easterly along the southerly street line of Clifton Avenue to the point and place of beginning.

Beginning at the point of intersection of the northerly street line of Willow Avenue and the point 240 feet to the west of Bay Street as measured from its westerly street line; thence southeasterly along a line 240 feet to the west of Bay Street and running parallel thereto to a point 208 feet to the south of Willow Avenue as measured from its southerly street line; thence southwesterly along a line 208 feet to the south of Willow Avenue and running parallel thereto the point where it meets the easterly street line of Langere Place; thence northeasterly along the easterly street line of Langere Place to the point where it meets the northerly street line of Willow Avenue; thence easterly along the northerly street line of Willow Avenue to the point and place of beginning.

Beginning at the point of intersection of the southerly street line of Chestnut Avenue and the Staten Island Rapid Transit Railway; thence southerly along such set of tracks to a point 334 feet to the south of Chestnut Avenue as measured from its southerly street line; thence westerly along a line 334 feet to the south of Chestnut Avenue and running parallel thereto to the point where it meets the easterly street line of Tompkins Avenue; thence northerly along the easterly street line of Tompkins Avenue to the point where it meets the southerly street line of Chestnut Avenue; thence easterly along the southerly street line of Chestnut Avenue to the point and place of beginning.

Beginning at the point of intersection of the westerly street line of Tompkins Avenue and a point 282 feet to the north of Chestnut Avenue as measured from its northerly street line; thence southerly along the westerly street line of Tompkins Avenue to a point 185 feet to the north of Chestnut Avenue as measured from its northerly street line; thence westerly along a line 185 feet to the north of Chestnut Avenue and running parallel thereto to a point 106 feet to the west of Tompkins Avenue as measured from its westerly street line; thence northerly along a line 106 feet to the west of Tompkins Avenue and running parallel thereto to a point 282 feet to the north of Chestnut Avenue as measured from its northerly street line; thence easterly along a line 282 feet to the north of Chestnut Avenue and running parallel thereto to the point and place of beginning.

§ 8. The North Shore empire zone, as described in Local Law No. 5 for the year 1994, Local Law No. 91 for the year 1995 and Local Law No. 62 for the year 1997, shall no longer include the properties generally described as follows:

Beginning at the point of intersection of the center line of Tompkins Avenue and the center line of Hill Street; thence westerly along the center line of Hill Street to a point 333 feet to the west of Tompkins Avenue as measured from its westerly street line; thence northerly along a line 333 feet to the west of Tompkins Avenue and running parallel thereto to a point 810 feet to the north of Hill Street as measured from its northerly street line; thence easterly along a line 810 feet to the north of Hill Street and running parallel thereto to the point where it meets the center line of

Tompkins Avenue; thence southerly along the center line of Tompkins Avenue to the point and place and beginning.

Beginning at the point of intersection of the center line of Hill Street and a point 267 feet to the west of Tompkins Avenue as measured from its westerly street line; thence southerly along a line 267 feet to the west of Tompkins Avenue and running parallel thereto to a point 302 feet to the south of Hill Street as measured from its southerly street line; thence westerly along a line 302 feet to the south of Hill Street and running parallel thereto to a point 581 feet to the west of Tompkins Street as measured from its westerly street line; thence northerly along a line 581 feet to the west of Tompkins Street and running parallel thereto to the point where it meets the center line of Hill Street; thence easterly along the center line of Hill Street to the point and place of beginning.

. . . . . .

§ 10. The commissioner of the New York State department of economic development is hereby requested to revise the boundaries of the North Shore empire zone in accordance with this local law.

2. Provisions of L.L. 45/2006:

§ 13. (a) By Local Law No. 5 for the year 1994, adopted on April 18, 1994, the council of the city of New York authorized an application for the designation of the North Shore economic development zone relative to certain land within the borough of Staten Island.

(b) The city of New York has received economic development zone approval from New York state.

(c) By Local Law No. 91 for the year 1995, adopted on December 19, 1995, the boundaries of the North Shore economic development zone were revised.

(d) By Local Law No. 62 for the year 1997, adopted on July 14, 1997, the boundaries of the North Shore economic development zone were revised a second time.

(e) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the North Shore economic development zone is now known as the North Shore empire zone.

(f) By Local Law No. 7 for the year 2002, adopted on June 10, 2002, the boundaries of the North Shore empire zone were revised a third time.

(g) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "development zones", including the North Shore empire zone, must be configured into up to six distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(h) The North Shore empire zone has been configured into five distinct and separate contiguous areas. Such areas are described by block and lot in subdivision h of section 22-711 of the administrative code of the city of New York, as added by section fourteen of this local law.

(i) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Staten Island as the North Shore empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(j) Pursuant to Article 18-B of the General Municipal Law, the North Shore Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the North Shore Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

20

[Footnote 20]: Subds. a, d superseded by subd. f per subd. e of § 22-711.

21

[Footnote 21]: * Subds. a, d superseded by subd. f per subd. e of § 22-711.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-712

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-712 Far Rockaway zone.

a. There is hereby established in the borough of Queens an empire zone as follows:

BEGINNING at the point of intersection of the center line of Norton Avenue and the center line of Beach 48th Street; thence southerly along the center line of Beach 48th Street to the point where it meets the center line of Rockaway Beach Boulevard; thence easterly along the center line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 47th Street, said line being the district boundary line between the C8-1 and R4 zoning districts as it appears on Sheet 30c of the Zoning Map of the New York City Planning Commission as amended effective September twenty-sixth, nineteen hundred ninety-two (A-1641), as contained in the Zoning Resolution of the City of New York, and as it appears on Sheet 31a of the Zoning Map of the New York City Planning Commission as amended effective September twenty-sixth, nineteen hundred ninety-two(A-1641), as contained in the Zoning Resolution of the City of New York, and as it appears on Sheet 31a of the Zoning

Map of the New York City Planning Commission as amended effective September sixteenth, nineteen hundred ninety (A-1591), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Beach 47th Street to a point 100 feet to the north of Oceanview Boulevard as measured from its northerly street line, said line being the district boundary line between the C8-1 and R4 zoning districts as it appears on Sheet 31a as described aforesaid; thence easterly along a line 100 feet to the north of Oceanview Boulevard and running parallel thereto to the point where it meets the center line of Beach 46th Street; thence northerly along the center line of Beach 46th Street to the point where it meets the center line of Rockaway Beach Boulevard; thence easterly along the center line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 43rd Street; thence southerly along the center line of Beach 43rd Street to a point 100 feet to the north of Oceanview

Boulevard as measured from its northerly street line; thence easterly along a line 100 feet to the north of Oceanview Boulevard and running parallel thereto to the point where it meets the center line of Beach 38th Street; thence northerly along the center line of Beach 38th Street to the point where it meets the center line of Rockaway Beach Boulevard; thence northeasterly along the center line of Rockaway Beach Boulevard and its prolongation to the point where it meets the center line of Beach Channel Drive; thence northeasterly along the center line of Beach Channel Drive to the point where it meets the center line of Far Rockaway Boulevard; thence northeasterly along the center line of Far Rockaway Boulevard to the point where it meets the center line of Beach 32nd Street; thence southeasterly along the center line of Beach 32nd Street to the point where it meets the western prolongation of the southerly street line of the Rockaway Freeway, as such prolongation appears on Sheet 31a as described

aforesaid; thence southwesterly along said prolongation to the point where it meets the center line of Seagirt Boulevard; thence southeasterly along the center line of Seagirt Boulevard to the point where it meets the center line of Beach 32nd Street; thence southerly along the center line of Beach 32nd Street to the point where it meets the center line of Seagirt Avenue; thence westerly along the center line of Seagirt Avenue and its prolongation to the point where it meets the center line of Beach 35th Street; thence southerly along the center line of Beach 35th Street to the point where it meets the center line of Schooner Way; thence westerly along the center line of Schooner Way to the point where it meets the center line of Duke Kahanamoku Way/Beach 38th Street; thence northerly along the center line of Duke Kahanamoku Way/Beach 38th Street to a point 175 feet to the south of Oceanview Boulevard as measured from its southerly street line; thence westerly along a line 175 feet to the south of Oceanview

Boulevard and running parallel thereto to a point 100 feet to the east of Beach 41st Street as measured from its easterly street line; thence southerly along a line 100 feet to the east of Beach 41st Street and running parallel thereto to the point where it meets the eastern prolongation of the southerly street line of Beach 41st Street as such prolongation appears on Sheet 31a as described aforesaid; thence westerly along said prolongation and the western prolongation of the southerly street line of Beach 41st Street as such prolongation appears on Sheet 31a as described aforesaid to a point 100 feet to the west of Beach 41st Street as measured from its westerly street line; thence northerly along a line 100 feet to the west of Beach 41st Street and running parallel thereto to a point 100 feet to the south of Oceanview Boulevard as mesured from its southerly street line; thence westerly along a line 100 feet to the south of Oceanview Boulevard and running parallel thereto to a point 150 feet to the east of

Beach 47th Street as measured from its easterly street line; thence southerely along a line 150 feet to the east of Beach 47th Street and running parallel thereto to a point 180 feet to the south of Oceanview Boulevard as measured from its southerly street line; thence westerly along a line 180 feet to the south of Oceanview Boulevrd and running parallel thereto to the point where it meets the center line of Beach 47th Street; thence northerly along the center line of Beach 47th Street to the point where it meets the center line of Oceanview Boulevard; thence westerly along the center line of Oceanview Boulevard to the point where it meets the center line of Beach 62nd Street; thence southerly along the center line of Beach 62nd Street to a point 388 feet to the south of Oceanview Boulevard as measured from its southerly street line; thence westerly along a line 388 feet to the south of Oceanview Boulevard and running parallel thereto to a point 100 feet to the west of Beach 62nd Street as measured from its

westerly street line; thence northerly along a line 100 feet to the west of Beach 62nd Street and running parallel thereto to a point 100 feet to the south of Oceanview Boulevrd as measured from its southerly street line; thence westerly along a line 100 feet to the south of Oceanview Boulevard and running parallel thereto to the point where it meets the center line of Beach 65th Street; thence southerly along the center line of Beach 65th Street to the point where it meets the prolongation of the northerly street line of Heron Park North, as such prolongation appears on Sheet 30c as described aforesaid; thence westerly along said prolongation to a point 100 feet to the east of Beach 69th Street as measured from its easterly street line; thence southerly along a line 100 feet to the east of Beach 69th Street and running parallel thereto to the point where it meets the center line of Heron Park South; thence westerly along the center line of Heron Park South to the point where it meets the center line of

Beach 69th Street; thence northerly along the center line of Beach 69th Street to the point where it meets the center

line of Oceanview Boulevard; thence southwesterly along the center line of Oceanview Boulevard to the point where it meets the center line of Rockaway Beach Boulevard; thence westerly along the center line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 73rd Street; thence northerly along the center line of Beach 73rd Street to the point where it meets the center line of Beach Channel Drive; thence westerly along the center line of Beach Channel Drive to the point where it meets the center line of Beach 77th Street; thence southerly along the center line of Beach 77th Street to the point where it meets the center line of Sunrise Avenue/Hammels Boulevard; thence westerly along the center line of Sunrise Avenue/Hammels Boulevard to the point where it meets the center line of Beach 81st Street, said line being the district boundary line between the M1-1 and R6

zoning districts as it appears on Sheet 30c as described aforesaid; thence southerly along the center line of Beach 81st Street to the point where it meets the center line of Rockaway Beach Boulevard; thence westerly and southwesterly along the center line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 97th Street; thence southeasterly along the center line of Beach 97th Street to the point where it meets the center line of Shore Front Parkway; thence westerly along the center line of Shore Front Parkway to the point where it meets the center line of Beach 99th Street, said line being the district boundary line between the R5 and R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence northwesterly along the center line of Beach 99th Street to the point where it meets the center line of Rockaway Beach Boulevard, said line being the district boundary line between the R5 and R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence

southwesterly along the center line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 102nd Street; thence northwesterly along the center line of Beach 102nd Street to the point where it meets the main line set of tracks of the New York City Transit System as such set of tracks appear on Sheet 30a of the Zoning Map of the New York City Planning Commission as amended effective August twenty-sixth, nineteen hundred ninety-two (A-1641), as contained in the Zoning Resolution of the City of New York; thence northeasterly along said set of tracks to the point where it meets the center line of Beach 98th Street; thence northwesterly along the center line of Beach 98th Street to the point where it meets the center line of Beach Channel Drive, said line being the district boundary line between the C8-1 and R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence northeasterly along the center line of Beach Channel Drive to the point where it meets the center line of

the westerly spur of the Cross Bay Parkway, said line being the district boundary line between the C8-1 and R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence southeasterly along the center line of the westerly spur of the Cross Bay Parkway to the point where it meets the main line set of tracks of the New York City Transit System as such set of tracks appear on Sheet 30c as described aforesaid, said line being the district boundary line between the C8-1 and R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence northeasterly along said set of tracks to the point where it meets the center line of the easterly spur of Cross Bay Parkway; thence southerly along the center line of the easterly spur of the Cross Bay Parkway to the point where it meets the northerly street line of Rockaway Beach Boulevard; thence northeasterly along the northerly street line of Rockaway Beach Boulevard to the point where it meets the center line of Beach 92nd Street; thence

northwesterly along the center line of Beach 92nd Street to a point 150 feet to the north of Beach Channel Drive as measured from its northerly street line; thence northeasterly along a line 150 feet to the north of Beach Channel Drive as measured from its northerly street line and running parallel thereto to a point 1110 feet to the east of Beach 92nd Street as measured from its easterly street line, said line being the district boundary line between the C3 and R4 zoning districts as it appears on Sheet 30c as described aforesaid; thence southeasterly along a line 1110 feet to the east of Beach 92nd Street and running parallel thereto to the point where it meets the center line of Beach Channel Drive, said line being the district boundary line between the C3 and R4 zoning districts as it appears on Sheet 30c described aforesaid; thence easterly along the center line of Beach Channel Drive to the point where it meets the center line of Beach 87th Street; thence southerly along the center line of Beach 87th

Street to the point where it meets the main line set of tracks of the New York City Transit System as such set of tracks appear on Sheet 30c as described aforesaid; thence northeasterly along said set of tracks to the point where it

meets the center line of Beach 84th Street, said line being the district boundary line between the R4 and R6 zoning districts as it appears on sheet 30c as described aforesaid; thence northerly along the center line of Beach 84th Street to the point where it meets the center line of Beach Channel Drive, said line being the district boundry line between the M1-1 and R4 zoning districts as it appears on Sheet 30c as described aforesaid; thence easterly along the center line of Beach Channel Drive to the point where it meets the center line of the easterly set of tracks of New York City Transit System as such set of tracks appear on Sheet 30c as described aforesaid, said line being the district boundary line between the M1-1 and R4 zoning districts as it appears on Sheet 30c as

described aforesaid; thence northwesterly along said set of tracks to the point where it meets the convergence of the southerly U.S. pierhead line of Beach Channel and the westerly shore line of Barbados Basin, said line being the district boundary line between the M1-1 and R4 and the M1-1 and C3 zoning districts as they appear on Sheet 30c as described aforesaid; thence southeasterly along the westerly shore line of Barbados Basin to the point where it meets the center line of Beach 77th Street and its prolongation; thence northerly along the prolongation of Beach 77th Street to the point where it meets the center line of Beach Boulevard; thence easterly along the center line of Beach Boulevard to the point where it meets the center line of Beach Channel Drive; thence southerly and southwesterly along the center line of Beach Channel Drive to the point it meets the western prolongation of the southerly street line of Beach 70th Street as such prolongation appears on Sheet 30c as described aforesaid, such

line being the district boundary line between the C8-1 and R5 and the M1-1 and R5 zoning districts as they appear on Sheet 30c as described aforesaid; thence easterly along the western prolongation of the southerly street line of Beach 70th Street to the point where it meets the eastern prolongation of the southerly street line of Beach 70th Street as such prolongation appears on Sheet 30c as described aforesaid, said line being the district boundary line between the R5 and the R6 zoning districts as it appears on Sheet 30c as described aforesaid; thence easterly along the eastern prolongation of the southerly street line of Beach 70th Street to a point 100 feet to the north of Oceanview Boulevard as measured from its northerly street line; thence easterly along a line 100 feet to the north of Oceanview Boulevard and running parallel thereto to the point where it meets the center line of Beach 62nd Street; thence northerly along the center line of Beach 62nd Street to the point where it meets the center line

of Beach Boulevard/Arverne Boulevard, said line being the district boundary line between the C4-1 and R5 zoning districts as it appears on Sheet 30c as described aforesaid; thence easterly along the center line of Arverne Boulevard to the point where it meets the center line of Beach 60th Street, said line being the district boundary line between the C4-1 and R5 zoning districts as it appears on Sheet 30c as described aforesaid; thence southerly along the center line of Beach 60th Street to a point 100 feet to the north of Oceanview Boulevard as measured from its northerly street line; thence easterly along a line 100 feet to the north of Oceanview Boulevard and running parallel thereto to the point where it meets the center line of Beach 57th Street; thence northerly along the center line of Beach 57th Street to the point where it meets the center line of Arverne Boulevard/Rockaway Beach Boulevard, said line being the district boundary line between the R6 and R5 zoning districts as it appears on Sheet 30c

as described aforesaid; thence easterly along the center line of Arverne Boulevard/Rockaway Beach Boulevard to the point where it meets the center line of Beach 54th Street; thence northerly along the center line of Beach 54th Street to the point where it meets the center line of Beach Channel Drive; thence easterly along the center line of Beach Channel Drive to the point where it meets the center line of Beach 49th Street, said line being the district boundary line between the R4 and R5 zoning districts as it appears on Sheet 30c as described aforesaid; thence northerly along the center line of Beach 49th Street to the point where it meets the center line of Norton Avenue; thence northeasterly along the center line of Norton Avenue to the point and place of beginning, said line being the district boundary line between the C3 and R4 zoning districts as it appears on Sheet 30c as described aforesaid.

There is one subzone: (1) BEGINNING at the point of intersection of the center line of Beach 12th Street and the center line of Brunswick Avenue; thence southwesterly along the center line of Brunswick Avenue to the point where it meets the center line of Nameoke Street, said line being the district boundary line between the M1-1 and R5 zoning districts as it appears on Sheet 25b of the Zoning Map of the New York City Planning Commission as amended

effective December eighteenth, nineteen hundred sixty-nine (A-923), as contained in the Zoning Resolution of the City of New York; thence southeasterly along the center line of Nameoke Street to a point 150 feet to the east of Central Avenue as measured from its easterly street line, said line being the district boundary line between the C8-1 and R5 zoning districts as it appears on Sheet 25b as described aforesaid; thence southwesterly along a line 150 feet to the east of Central Avenue and running parallel thereto to the point where it meets the center line of Foam Place, said line being the district boundary line between the C8-1 and R5 and the C4-2 and R5 zoning districts as they appear on Sheet 25b as described aforesaid; thence southeasterly along the center line of Foam Place to the point where it meets the center line of Beach 18th Street, said line being the district boundary line between the C4-2 and R5 zoning districts as it appears on Sheet 25b as described aforesaid and Sheet 31a of the Zoning Map of the New York City Planning Commission as amended effective September sixteenth, nineteen hundred ninety (A-1591), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Beach 18th Street to the point where it meets the center line of Mott Avenue, said line being the district boundary line between the C4-2 and R5 zoning districts as it appears on Sheet 31a as described aforesaid; thence southeasterly along the center line of Mott Avenue to the point where it meets the center line of Cornaga Avenue; thence southwesterly along the center line of Cornaga Avenue to the point where it meets the center line of Beach 19th Street; thence southerly along the center line of Beach 19th Street to the point where it meets the center line of New Haven Avenue; thence westerly along the center line of New Haven Avenue to the point where it meets the center line of Beach 22nd Street; thence northerly along the center line of Beach 22nd Street to the point where it meets the center line of Mott Avenue; thence westerly along the center line of Mott Avenue to a point 200 feet to the west of Beach Channel Drive as measured from its westerly street line; thence northerly along a line 200 feet to the west of Beach Channel Drive and running parallel thereto to the point where it meets the center line of Dix Avenue; thence easterly along the center line of Dix Avenue to the point where it meets the center line of Redfern Avenue; thence northeasterly along the center line of Redfern Avenue to the point where it meets the center line of Beach 12th Street, said line being the district boundary line between the C8-1 and R5 and the M1-1 and R5 zoning districts as they appear on Sheet 25b as described aforesaid; thence southeasterly along the center line of Beach 12th Street to the point and place of beginning.

b. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous area described by block and lot in subdivision c of this section, the boundaries of the zone set forth in subdivision a of this section shall be superseded by subdivision c of this section.

c. There is hereby established in the borough of Queens an empire zone consisting of the following blocks and lots:

Block: 15529 Lots: 4; 9; 10; 19; 38; 42; 48; 54; 65; 102; 105; 110; 115; 121; 122; 123; 129; 134; 136; 142; 143; 161.

Block: 15536 Lots: 1; 6; 12; 15; 18; 22; 28; 31.

Block: 15537 Lots: 1; 5; 40; 46; 50; 51; 53; 54; 55; 56; 57; 58; 59; 60; 63; 65; 71; 79; 89; 92; 94; 99; 100; 112; 125; 128; 130; 133; 137; 147; 148; 150; 152; 153.

Block: 15544 Lots: 1; 6; 8; 10; 12; 15; 18; 21; 24; 26; 28; 31; 34; 40; 46; 51; 57; 63.

Block: 15545 Lots: 1; 4; 7; 10; 13; 19; 23; 26; 28; 29; 32; 41; 43; 44; 48.

Block: 15557 Lots: 1; 4; 14; 17; 25; 81; 83; 84; 86; 7501.

Block: 15559 Lots: 1; 8; 12; 25; 40; 42; 44; 51; 54; 58; 62; 151.

Block: 15560 Lots: 1; 8; 12; 17; 22; 23; 24; 26; 30; 34; 41; 43; 44; 45; 50; 52; 54.

Block: 15561 Lots: 1; 4; 8; 10; 13; 16; 18; 19; 21; 22; 23; 26; 29; 34; 58.

Block: 15564 Lots: 1; 11; 14; 15; 16; 17; 19; 21; 23; 25; 33; 36; 38; 40; 42; 45; 50; 51; 52; 53; 55; 63; 79; 7501.

Block: 15566 Lots: 1; 9; 17; 22; 23; 25; 26; 28; 30; 32; 36; 38; 40; 42; 43; 44; 45; 46; 47; 48; 49; 50; 53; 55; 56; 57; 58; 60; 65; 146; 148; 149.

Block: 15636 Lots: 1; 7; 61; 64.

Block: 15637 Lots: 1; 10; 12; 14; 15; 17; 19; 20; 21; 23; 27; 31; 34; 36; 39; 50; 56; 58; 68; 69; 73; 75; 78; 79; 82; 84; 86; 171.

Block: 15704 Lots: 1; 5; 6; 17; 26; 30; 36; 40; 53; 55; 57; 60; 66; 72; 75.

Block: 15705 Lots: 1; 6; 9; 10; 11; 12; 13; 14; 15; 18; 21; 22; 25; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 59; 69; 78; 81; 84; 88; 125; 135; 136; 140.

Block: 15747 Lots: 1.

Block: 15750 Lots: 1; 29; 33; 37; 40; 42; 43; 45; 46; 50; 54.

Block: 15751 Lots: 4; 10; 16; 19; 24; 26; 28; 30; 34; 36; 39; 45.

Block: 15760 Lots: 1; 3; 6; 9; 12; 21; 23; 25; 27; 30; 33; 36; 39; 42; 45.

Block: 15761 Lots: 1; 3; 5; 9; 11; 13; 14; 26; 32; 42; 44.

Block: 15767 Lots: 1; 7; 14; 17; 24; 26; 28; 32; 41; 48; 50.

Block: 15768 Lots: 7501.

Block: 15769 Lots: 1; 3; 5; 10; 11; 13; 14; 15; 16; 17; 25; 26; 27; 28; 30; 32; 34.

Block: 15770 Lots: 6; 7; 9; 12; 13; 16; 20; 22; 24; 26; 28; 30; 33; 36; 38; 39; 41; 43; 46; 48; 49; 50; 53; 55; 57; 60.

Block: 15780 Lots: 15; 20; 75; 100.

Block: 15781 Lots: 1; 4; 8; 10; 11; 12; 13; 15; 16; 17; 19; 21; 23; 25; 27; 29; 32; 34; 36; 38; 40; 42; 44; 46; 48; 50; 52; 70; 75; 76.

Block: 15782 Lots: 1; 7; 14; 21; 32; 33; 34; 35; 36; 37; 38; 39; 40; 42; 43; 46; 48; 50; 51; 53; 54.

Block: 15783 Lots: 45; 47; 48; 50; 51; 53; 55; 56; 58; 60; 63; 64; 65; 67; 68.

Block: 15784 Lots: 1; 20; 22; 25; 26; 28; 29; 31; 33.

Block: 15786 Lots: 42; 44; 46; 48; 50; 51; 54; 56; 58; 59; 62; 63; 64; 65; 66; 67; 69; 71; 72; 75; 77; 79; 82; 83; 84; 85; 86; 87; 88; 93; 94; 95; 99; 101; 103; 105; 108; 109; 110; 112; 114; 190; 195; 206.

Block: 15788 Lots: 2; 4; 6; 7; 9; 10; 11; 12; 15; 16; 18; 22; 25; 37; 107; 109; 110; 117; 119; 120; 123; 125; 127; 129; 130; 132.

Block: 15801 Lots: 1; 9; 10; 15; 26.

Block: 15802 Lots: 1; 5; 7; 12; 14; 15; 17; 26; 28; 30.

Block: 15803 Lots: 1; 4; 7; 10; 12; 14; 16; 18; 23; 25; 26; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 46; 48; 49; 50; 51; 52; 55; 56; 57; 58; 59; 60; 61; 62; 63; 141; 143.

Block: 15804 Lots: 1; 4; 7; 10; 15; 17; 23; 25; 27; 28; 33; 34; 35; 36; 37; 38; 41; 138.

Block: 15805 Lots: 1; 6; 8; 10; 12; 14; 16; 18; 20; 25; 32; 34; 36; 38; 40; 42.

Block: 15806 Lots: 1; 4; 7; 9; 11; 13; 15; 17; 19; 21; 23; 25; 27; 29; 31; 33; 35; 37.

Block: 15807 Lots: 1; 5; 10; 11; 13; 14; 15; 16; 19; 22; 24; 25; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 38; 122; 123; 131.

Block: 15808 Lots: 1; 2; 3; 4; 5; 7; 8; 9; 10; 11; 16; 24; 29; 53; 57; 59; 60; 61; 62; 64; 65; 66; 67; 68; 109; 110; 166.

Block: 15810 Lots: 1; 25; 30; 40; 55; 71; 75; 80.

Block: 15815 Lots: 1; 20; 21; 22; 23; 24; 25; 26; 27; 28; 30; 31; 32; 33; 35; 36; 38; 39; 40; 42; 43; 45; 46; 48; 51; 53; 54; 61; 62; 63; 65; 67; 68; 69; 70; 71; 91; 122; 123; 124; 125; 126; 127; 128; 130; 131; 132; 133; 134; 136; 137; 138; 140; 142; 143; 145; 146; 148; 150; 151; 153; 161; 162; 163; 165; 167; 168; 169; 170; 212; 220; 280.

Block: 15817 Lots: 1; 11; 16; 17; 18; 20; 21; 26; 31; 36; 37; 38; 40; 41; 46; 48; 49; 50; 51; 57; 59; 60; 61; 62; 63; 68; 70; 71; 73; 74; 75; 76; 78; 79; 81; 82; 83; 88; 103; 140; 146; 148.

Block: 15818 Lots: 1; 5; 7; 8; 9; 11; 12; 14; 15; 17; 19; 20; 21; 23; 27; 29; 30; 31; 32; 34; 35; 37; 38; 39; 41; 43; 48; 49; 50; 51; 53; 58; 59; 61; 62; 63; 64; 65; 68; 73; 78; 86; 87; 88; 89; 90; 91; 92; 93; 94; 95; 110; 139; 141; 148; 149; 150; 151.

Block: 15819 Lots: 36; 40; 42; 44; 46; 48; 50; 52; 54; 56; 58; 59; 61; 62; 63; 64; 66; 67; 73; 77; 79; 122; 123; 124; 125; 126; 128; 131; 133; 134; 135; 136; 138; 139; 142; 145; 148; 153; 156; 7501.

Block: 15820 Lots: 1.

Block: 15821 Lots: 1; 9; 16; 18; 22; 25; 31; 32; 33; 34; 35; 36; 37; 38; 42; 46.

Block: 15822 Lots: 1; 20; 23; 30; 35; 42; 44; 48.

Block: 15823 Lots: 1; 23; 26; 29; 30; 32; 34; 37; 40; 42.

Block: 15825 Lots: 1; 7; 9.

Block: 15826 Lots: 1; 3; 4; 5; 6; 8; 9; 11; 12; 13; 15; 16; 17; 18; 31.

Block: 15827 Lots: 12; 15; 25; 29; 31.

Block: 15828 Lots: 1; 3; 4; 5; 7; 9; 11; 13; 15; 17; 18; 20; 22; 23; 30; 37; 40; 42; 43; 44; 45; 46; 50; 51; 52; 53; 78; 80; 98; 100; 117; 118; 120; 140.

Block: 15829 Lots: 1; 2; 6; 8; 9; 11; 13; 15; 21; 23; 24; 25; 27; 28; 29; 30; 31; 40; 41; 42; 43; 44; 46; 47; 49; 51; 52; 54; 58.

Block: 15830 Lots: 1; 2; 4; 5; 6; 7; 9; 11; 12; 14; 15; 16; 17; 19; 23; 26; 28; 30; 38; 39; 42; 43; 45; 46; 50; 51;

52; 53; 54; 55; 59; 60; 61.

Block: 15831 Lots: 1; 6; 11; 12; 13; 14; 15; 16; 17; 20; 24; 25; 29; 32; 50.

Block: 15832 Lots: 60; 75.

Block: 15833 Lots: 1; 7; 9; 10; 12; 14; 16; 18; 20; 22; 24; 26; 28; 30; 31; 32; 33; 39; 41; 44; 45; 46; 55; 58; 61; 66; 67; 68; 69; 70; 71; 73.

Block: 15834 Lots: 1; 9; 11; 13; 16; 17; 19; 21; 22; 23; 24; 25; 26; 28; 30; 38; 42; 43; 45; 47; 49; 51; 53; 54; 56; 58; 60; 62; 64; 158.

Block: 15835 Lots: 25; 27; 29; 30; 32; 33; 34; 35; 37; 38; 39; 42; 43; 54; 56; 59; 61; 63; 65; 67; 69; 71.

Block: 15836 Lots: 1; 7; 10; 12; 13; 22.

Block: 15837 Lots: 1; 5; 7; 9; 10; 12; 13; 15; 17; 19; 23; 25; 27; 29; 31; 33; 41; 47; 49; 51; 52; 54; 56; 58; 59; 60; 62; 64; 65; 66; 67; 69.

Block: 15838 Lots: 3; 7; 9; 11; 12; 13; 15; 17; 19; 20; 21; 23; 25; 27; 29; 33; 35; 37; 39; 41; 43; 45; 47; 48; 49; 51; 53; 55; 57; 59; 61; 63; 67; 70; 72; 74; 76.

Block: 15839 Lots: 1; 3; 5; 7; 9; 13; 15; 17; 19; 21; 22; 24; 25; 26; 34; 36; 38; 40; 42; 43; 44; 46; 47; 49; 51; 58; 60; 61; 63; 64; 67; 68; 70; 72; 75.

Block: 15840 Lots: 1; 6; 64; 65.

Block: 15841 Lots: 3; 5; 7; 8; 10; 14; 19; 70.

Block: 15842 Lots: 1; 100.

Block: 15843 Lots: 1.

Block: 15845 Lots: 1; 4; 8; 10; 13; 14; 15; 21; 28; 29; 30; 32; 35; 44.

Block: 15847 Lots: 75; 79; 80; 81; 82; 83; 84; 85; 86; 87; 88; 89.

Block: 15848 Lots: 36; 41; 45; 46; 48; 50; 52; 54; 55; 57; 58; 60; 62; 63; 65; 67.

Block: 15849 Lots: 1; 6; 8; 9; 10; 15; 16; 17; 18; 19; 20; 21; 22; 27; 28; 29.

Block: 15850 Lots: 1; 6; 16; 28; 30; 31.

Block: 15851 Lots: 33; 35; 40; 42; 44; 45; 48; 58; 59.

Block: 15852 Lots: 60; 64; 68; 73; 84; 86; 88.

Block: 15853 Lots: 39; 40; 48; 53; 60; 90; 95; 96; 97; 98; 102.

Block: 15855 Lots: 1; 90.

Block: 15857 Lots: 1; 7; 40; 42; 75.

Block: 15859 Lots: 1.

Block: 15860 Lots: 1.

Block: 15861 Lots: 1; 35; 47.

Block: 15862 Lots: 1.

Block: 15863 Lots: 1.

Block: 15864 Lots: 1.

Block: 15865 Lots: 1.

Block: 15866 Lots: 1.

Block: 15867 Lots: 1.

Block: 15868 Lots: 1.

Block: 15869 Lots: 1.

Block: 15870 Lots: 60; 71.

Block: 15871 Lots: 1.

Block: 15873 Lots: 1.

Block: 15874 Lots: 8; 41.

Block: 15875 Lots: 1.

Block: 15876 Lots: 1.

Block: 15890 Lots: 8; 13; 16; 17; 18; 28; 30; 37; 41; 42; 54; 58; 62; 64; 66; 69; 84; 89; 94; 97.

Block: 15891 Lots: 1; 5; 9; 10; 21; 30; 55; 57.

Block: 15892 Lots: 1.

Block: 15894 Lots: 1; 11.

Block: 15895 Lots: 50.

Block: 15897 Lots: 1; 17; 18; 36; 40; 42; 44; 130; 133; 134; 135; 137; 139; 141; 143; 145.

Block: 15898 Lots: 35.

Block: 15900 Lots: 2; 4; 8.

Block: 15901 Lots: 1; 5; 8; 57.

Block: 15904 Lots: 1; 19; 20; 25; 27; 29; 31; 33; 34; 35; 37.

Block: 15907 Lots: 50.

Block: 15908 Lots: 3; 5; 162.

Block: 15909 Lots: 1; 6; 7; 65; 70.

Block: 15910 Lots: 7.

Block: 15913 Lots: 26; 37.

Block: 15917 Lots: 1; 14.

Block: 15918 Lots: 2; 10; 18; 85.

Block: 15947 Lots: 1.

Block: 15948 Lots: 1.

Block: 15950 Lots: 1; 14; 24; 29; 42; 55.

Block: 15973 Lots: 1; 38.

Block: 16014 Lots: 1; 22.

Block: 16076 Lots: 1; 14; 118.

Block: 16077 Lots: 1; 28; 40; 42.

Block: 16078 Lots: 1; 3; 6; 8; 10; 12; 14; 15; 17; 18; 20; 21; 23; 25; 27; 28; 29; 35; 37; 45; 47; 48; 49; 51; 52; 53; 54; 55; 56; 57; 58.

Block: 16079 Lots: 1; 7; 9; 18; 20; 22; 24; 26; 28; 29; 31; 33; 34; 36; 43; 45; 47.

Block: 16080 Lots: 1; 37; 100.

Block: 16081 Lots: 45.

Block: 16083 Lots: 39; 42; 43; 84.

Block: 16085 Lots: 44; 47; 48; 92.

Block: 16087 Lots: 12; 15.

Block: 16088 Lots: 1; 11; 12; 15; 40.

Block: 16089 Lots: 1; 11; 12; 15.

Block: 16090 Lots: 1; 20; 24; 25; 29; 85.

Block: 16091 Lots: 1; 6.

Block: 16096 Lots: 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 44; 50.

Block: 16100 Lots: 1; 7; 14; 18; 20; 24; 28; 29; 31; 33; 34; 37; 38; 56; 85; 175.

Block: 16103 Lots: 1; 60; 136; 140; 200.

Block: 16104 Lots: 1; 25; 28; 201.

Block: 16105 Lots: 1.

Block: 16106 Lots: 1.

Block: 16111 Lots: 1; 25.

Block: 16112 Lots: 1; 41; 45; 66.

Block: 16113 Lots: 1; 9.

Block: 16114 Lots: 2; 125; 9999.

Block: 16115 Lots: 4; 36.

Block: 16117 Lots: 24; 84.

Block: 16119 Lots: 18; 25; 27; 31; 32; 33; 36; 40; 41; 44; 45; 51; 54; 56; 58; 60; 61; 62; 63; 64; 65; 67; 71; 74; 78; 79; 80; 81; 84; 85; 86; 87; 90; 92; 94; 97; 100; 101; 102; 104; 109; 110; 111; 112; 113; 115; 120; 122; 178; 236; 289; 294; 297.

Block: 16120 Lots: 1; 5; 6; 10; 12; 14; 65; 68; 69; 70; 71; 72; 79; 80.

Block: 16121 Lots: 1; 4; 5; 7; 9; 13; 14; 15; 126; 133; 136; 138; 143; 145; 146; 148.

Block: 16122 Lots: 1; 3; 5; 7; 9; 10; 12; 14; 15; 17; 18; 19; 22; 23; 25; 27; 29; 30; 32; 36; 38; 39; 42; 43; 44; 45; 46; 47; 48; 50; 52; 54; 56; 58; 60; 107; 133; 134; 137.

Block: 16123 Lots: 1; 2; 9; 10; 11; 12; 13; 15; 16; 17; 18; 20; 21; 22; 23; 25; 26; 28; 30; 32; 34; 36; 38; 44; 46; 48; 50; 52; 54; 56; 58; 60; 62; 64; 66; 68; 70; 79; 85; 86; 92; 94; 95; 98; 99.

Block: 16124 Lots: 1; 3; 4; 5; 7; 11; 12; 14; 16; 17; 18; 20; 21; 22; 23; 25; 26; 27; 28; 29; 33; 76; 78; 84; 91; 92; 94; 95; 96; 97; 104; 107; 108; 111; 114; 115; 119.

Block: 16125 Lots: 1; 3; 5; 6; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 22; 23; 24; 64; 69; 70; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 82; 85; 86; 87; 89; 90; 92; 97; 98; 100; 101; 102; 103; 104; 105; 107; 108; 111; 114; 118; 120; 121; 122; 123; 124; 188.

Block: 16126 Lots: 1.

Block: 16127 Lots: 1; 7; 8; 9; 10; 11; 12; 13; 16; 22; 23; 24; 25.

Block: 16128 Lots: 1; 50.

Block: 16129 Lots: 1.

Block: 16131 Lots: 10; 50.

Block: 16151 Lots: 6; 14; 15; 18; 36; 91; 92.

Block: 16152 Lots: 1; 3; 5; 10; 11; 14; 26; 46; 65; 66; 67; 69; 71; 74; 75; 77; 78; 80; 81; 82; 83; 84; 101.

Block: 16153 Lots: 1; 7; 8; 11; 12; 13; 14; 15; 18; 21; 23; 25; 28; 69; 71; 72; 80; 81; 82; 83; 84; 89; 91; 95; 108; 185; 208; 285.

Block: 16154 Lots: 2; 4; 6; 8; 10; 12; 14; 15; 16; 18; 20; 22; 24; 26; 28; 30; 32; 101.

Block: 16155 Lots: 1; 5; 7; 10; 12; 15; 17; 18; 80; 81; 82; 83; 84; 87; 91; 92.

Block: 16156 Lots: 1; 6; 7; 8; 9; 12; 19; 80; 94; 95; 96; 97; 98; 99; 100; 101; 102; 103.

Block: 16157 Lots: 1; 2; 3; 4; 6; 10; 24; 25; 89; 90; 91; 92; 95.

Block: 16158 Lots: 5.

Block: 16159 Lots: 8; 9.

Block: 16160 Lots: 8; 9.

Block: 16161 Lots: 29; 50; 9999.

Block: 16162 Lots: 3; 18; 100; 120.

Block: 16164 Lots: 1; 2; 3; 4; 5; 10; 11; 12; 13; 14; 20; 22; 23; 103; 104; 204; 304.

Block: 16166 Lots: 1; 3; 5; 6; 7; 8; 9; 11; 13; 15; 17; 19; 20; 22; 23; 24; 25; 26; 27; 29; 31; 32; 35; 38; 40; 43; 45; 47; 49; 50; 53; 55; 56; 57; 59; 61; 63; 65; 68; 69; 71; 72; 73; 74; 75; 76; 77; 78; 79; 80; 81; 85; 94; 100; 101; 110; 155; 177; 250; 260; 269; 281; 286; 293; 299; 304; 311; 312; 315; 317; 322; 336; 350; 400; 425; 426; 434; 449; 450; 453; 460; 470; 482; 483; 485; 486; 487.

Block: 16167 Lots: 151; 160.

Block: 16171 Lots: 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 27; 28; 29; 30; 31; 32; 34; 35; 39; 46; 47; 48; 50; 51; 52; 53; 58; 59; 60; 62; 64; 65; 68; 69; 70; 71; 72; 73.

Block: 16172 Lots: 11; 20; 60.

Block: 16176 Lots: 1; 25.

Block: 16178 Lots: 1; 50; 60; 65; 70; 80.

Block: 16180 Lots: 1; 2; 3; 8; 9.

Block: 16188 Lots: 1; 4; 6; 8; 12; 15; 17; 19; 21; 23; 25; 28; 30; 34; 62; 66; 68; 70; 73; 75; 78.

Block: 16190 Lots: 10; 100; 130.

HISTORICAL NOTE

Section added L.L. 5/1994 § 2, eff. Apr. 18, 1994.

Subd. a open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. b added L.L. 45/2006 § 16, eff. Nov. 9, 2006. [See Note 1]

Subd. c added L.L. 45/2006 § 16, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 15. (a) By Local Law No. 5 for the year 1994, adopted on April 18, 1994, the council of the city of New York authorized an application for the designation of the Far Rockaway economic development zone relative to certain land within the borough of Queens.

(b) The city of New York has received economic development zone approval from New York state.

(c) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Far Rockaway economic development zone is now known as the Far Rockaway empire zone.

(d) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Far Rockaway empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(e) The Far Rockaway empire zone has been configured into one distinct and separate contiguous area. Such area is described by block and lot in subdivision c of section 22-712 of the administrative code of the city of New York, as added by section sixteen of this local law.

(f) Accordingly, the city of New York is authorized to submit an application for redesignation of such area within the borough of Queens as the Far Rockaway empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(g) Pursuant to Article 18-B of the General Municipal Law, the Far Rockaway Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the Far Rockaway Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-713

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-713 Brooklyn Navy Yard/North Brooklyn Empire Zone.

a. In accordance with subdivision (a) of section nine hundred sixty-one of the general municipal law, the preparation and submission of an application by the city of New York to the commissioner of the New York state department of economic development for designation of an area within such city as an empire zone is hereby authorized. Upon designation of such area as an empire zone, such area shall be known as the Brooklyn Navy Yard/North Brooklyn Empire Zone.

b. Except as provided in subdivision c of this section, the boundaries of such area are as follows:

BEGINNING at the point of intersection of the center line of Meeker Street and the westerly U.S. pierhead and bulkhead line of the Newton Creek; thence southerly along said U.S. pierhead and bulkhead line to the point where it meets the center line of Lombardy Street; thence westerly along the center line of Lombardy Street to the point where it meets the center line of Porter Avenue; thence southerly along the center line of Porter Avenue to the point where it meets the center line of Division Place, said line being the district boundary line between the M3-1 and M1-1 zoning districts as it appears on Sheet 13a of the Zoning Map of the New York City Planning Commission as amended effective October twenty-fifth, nineteen hundred ninety-five (A-1699), as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Division Place to the point where it meets the center line of Vandervoort Avenue, said line being the district

boundary line between the M3-1 and M1-1 zoning districts as it appears on Sheet 13a as described aforesaid; thence southerly along the center line of Vandervoort Avenue to the point where it meets the center line of Maspeth Avenue, said line being the district boundary line between the M3-1 and M1-1 zoning districts as it appears on Sheet 13a as

described aforesaid; thence easterly along the center line of Maspeth Avenue to the point where it meets the westerly U.S. pierhead and bulkhead line of the Newton Creek; thence southerly along said U.S. pierhead and bulkhead line to the point where it meets the northerly U.S. pierhead and bulkhead line of the English Kills; thence westerly, thence southerly, thence northerly and thence easterly along said U.S. pierhead and bulkhead line to the point where it meets the westerly U.S. pierhead and bulkhead line of the Newton Creek; thence southerly along said U.S. pierhead and bulkhead line to the point where it meets the prolongation of the center line of Onderdonk

Avenue, said line being the border between the boroughs of Brooklyn and Queens as it appears on Sheet 13b of the Zoning Map of the New York City Planning Commission as amended effective April twenty-first, nineteen hundred ninety-three (A-1653), as contained in the Zoning Resolution of the City of New York; thence southerly along the prolongation and the center line of Onderdonk Avenue to the point where it meets the prolongation of the center line of Seneca Avenue, said line being the border between the boroughs of Brooklyn and Queens as it appears on Sheet 13b as described aforesaid; thence southerly along the prolongation and the center line of Seneca Avenue to the point where it meets the center line of Flushing Avenue, said line being the border between the boroughs of Brooklyn and Queens and the district boundary line between the M1-1 and M3-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Flushing Avenue to the point where it meets the

center line of Cypress Avenue, said line being the border between the boroughs of Brooklyn and Queens and the district boundary line between the M1-1 and M3-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along the center line of Cypress Avenue to the point where it meets the center line of Starr Street, said line being the border between the boroughs of Brooklyn and Queens as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Starr Street to a point 100 feet to the southwest of St. Nicholas Avenue as measured from its southwesterly street line, said line being the district boundary line between the R4 and M1-1 zoning districts and the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along a line 100 feet to the southwest of St. Nicholas Avenue and running parallel thereto to the point where it meets the center line of Willoughby Avenue, said line being the district

boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Willoughby Avenue to the point where it meets the center line of Wyckoff Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along the center line of Wyckoff Avenue to the point where it meets the center line of Dekalb Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Dekalb Avenue to a point 400 feet to the northeast of Irving Avenue as measured from its northeasterly street line, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly along a line 400 feet to the north of Irving Avenue and running parallel

thereto to the point where it meets the center line of Suydam Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Suydam Street to a point 200 feet to the northeast of Irving Avenue as measured from its northeasterly street line, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly along a line 200 feet to the northeast of Irving Avenue and running parallel thereto to the point where it meets the center line of Starr Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Starr Street to the point where it meets the center line of Irving Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears

on Sheet 13b as described aforesaid; thence northwesterly along the center line of Irving Avenue to the point where it meets the center line of Melrose Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Melrose Street to the point where it meets the center line of Knickerbocker Avenue, said line being the district boundary line between

the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly along the center line of Knickerbocker Avenue to the point where it meets the center line of George Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of George Street to a point 100 feet to the southwest of Knickerbocker Avenue as measured from its southwesterly street line; thence northwesterly along a

line 100 feet to the southwest of Knickerbocker Avenue and running parallel thereto to the point where it meets the center line of Flushing Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Flushing Avenue to the point where it meets the center line of Noll Street; thence southwesterly along the center line of Noll Street to the point where it meets the center line of Wilson Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along the center line of Wilson Avenue to the point where it meets the center line of George Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of George Street to a point 100 feet to the northeast of Central

Avenue as measured from its northeasterly street line, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along a line 100 feet to the northeast of Central Avenue and running parallel thereto to the point where it meets the center line of Jefferson Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence southwesterly along the center line of Jefferson Street to the point where it meets the center line of Evergreen Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly along the center line of Evergreen Avenue to the point where it meets the center line of Jefferson Street; thence westerly along the center line of Jefferson Street to the point where it meets the center line of Bushwick Avenue, said line

being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly and thence northerly along the center line of Bushwick Avenue to a point 65 feet to the south of Flushing Avenue as measured from its southerly street line; thence westerly along a line 65 feet to the south of Flushing Avenue and running parallel thereto to a point 150 feet to the northeast of Broadway as measured from its northeasterly street line; thence southeasterly along a line 150 feet to the northeast of Broadway and running parallel thereto to the point where it meets the center line of Jefferson Street; thence southwesterly along the center line of Jefferson Street to a point 150 feet to the southwest of Broadway as measured from its southwesterly street line; thence northwesterly along a line 150 feet to the southwest of Broadway and running parallel thereto to a point 65 feet to the south of Flushing Avenue, as measured from its southerly street line;

thence westerly along a line 65 feet to the south of Flushing Avenue and running parallel thereto to the point where it meets the center line of Tompkins Avenue; thence southerly along the center line of Tompkins Avenue to the point where it meets the center line of Ellery Street, said line being the district boundary line between the R6 and M1-3 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Ellery Street to the point where it meets the center line of Marcy Avenue/Rev. Dr. Gardner C. Taylor Boulevard, said line being the district boundary line between the R6 and M1-3 zoning districts as it appears on Sheet 13b as described aforesaid; thence northerly along the center line of Marcy Avenue/Rev. Dr. Gardner C. Taylor Boulevard to the point where it meets the center line of Wallabout Street, said line being the district boundary line between the R6 and M1-3 zoning districts and the M1-2 and M3-1 zoning districts as it appears on Sheet 13b as

described aforesaid; thence westerly along the center line of Wallabout Street to the point where it meets the center line of Marcy Avenue, said line being the district boundary line between the M1-2 and M3-1 zoning districts as it appears on Sheet 13b as described aforesaid; thence northwesterly along the center line of Marcy Avenue to the point where it meets the center line of Walton Street; thence northeasterly along the center line of Walton Street to the point where it meets the center line of Harrison Avenue; thence southeasterly along the center line of Harrison Avenue to the

point where it meets the center line of Gerry Street, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 13b as described aforesaid; thence northeasterly along the center line of Gerry Street to a point 200 feet to the northeast of Harrison Avenue as measured from its northeasterly street line; thence southeasterly along a line 200 feet to the northeast of Harrison Avenue

and running parallel thereto to the point where it meets the center line of Bartlett Street; thence southwesterly along the center line of Bartlett Street to the point where it meets the center line of Harrison Avenue; thence southeasterly along the center line of Harrison Avenue to a point 80 feet to the north of Flushing Avenue as measured from its northerly street line; thence easterly along a line 80 feet to the north of Flushing Avenue and running parallel thereto to a point 150 feet to the south of Broadway as measured from its southerly street line; thence westerly along a line 150 feet to the south of Broadway and running parallel thereto to the point where it meets the center line of Bedford Avenue; thence northerly along the center line of Bedford Avenue to the point where it meets the center line of South 6th Street; thence westerly along the center line of South 6th Street to the point where it meets the center line of Kent Avenue; thence southerly along the center line of Kent Avenue to the

point where it meets the center line of South 8th Street; thence westerly along the prolongation of South 8th Street to the point where it meets the easterly U.S. pierhead line of the East River; thence northerly along said U.S. pierhead line to the point where it meets the prolongation of the center line of Grand Street; thence easterly along the prolongation and the center line of Grand Street to the point where it meets the center line of Kent Avenue; thence southerly along the center line of Kent Avenue to the point where it meets the center line of South 1st Street; thence easterly along the center line of South 1st Street to the point where it meets the center line of Wythe Avenue; thence southerly along the center line of Wythe Avenue to a point 290 feet to the south of South 1st Street as measured from its southerly street line; thence westerly along a line 290 feet to the south of South 1st Street and running parallel thereto to a point 25 feet to the west of Wythe Avenue as measured from its

westerly street line; thence southerly along a line 25 feet to the west of Wythe Avenue and running parallel thereto to a point 60 feet to the north of South 6th Street as measured from its northerly street line; thence easterly along a line 60 feet to the north of South 6th Street and running parallel thereto to a point 150 feet to the north of Broadway as measured from its northerly street line; thence easterly along a line 150 feet to the north of Broadway and running parallel thereto to a point 150 feet to the west of Havemeyer Street as measured from its westerly street line; thence northerly along a line 150 feet to the west of Havemeyer Street and running parallel thereto to the point where it meets the center line of Metropolitan Avenue; thence easterly along the center line of Metropolitan Avenue to a point 150 feet to the east of Havemeyer Street as measured from its easterly street line, said lines being the district boundary line between the M1-1 and M1-2 zoning districts as it appears on Sheet

12d of the Zoning Map of the New York City Planning Commission as amended effective September first, nineteen hundred ninety (A-1319), as contained in the Zoning Resolution of the City of New York and Sheet 13b as described aforesaid; thence southerly along a line 150 feet to the east of Havemeyer Street and running parallel thereto to a point 150 feet to the north of Broadway as measured from its northerly street line; thence easterly along a line 150 feet to the north of Broadway and running parallel thereto to a point 150 feet to the west of Graham Avenue/Avenue of Puerto Rico as measured from its westerly street line; thence northerly along a line 150 feet to the west of Graham Avenue/Avenue of Puerto Rico and running parallel thereto to a point 150 feet to the south of Grand Street as measured from its southerly street line; thence westerly along a line 150 feet to the south of Grand Street and running parallel thereto to the point where it meets the center line of Union Avenue; thence northerly along

the center line of Union Avenue to a point 150 feet to the north of Grand Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Grand Avenue and running parallel thereto to a point 150 feet to the west of Graham Avenue/Avenue of Puerto Rico as measured from its westerly street line; thence northerly along a line 150 feet to the west of Graham Avenue/Avenue of Puerto Rico and running parallel thereto to the point where it meets the center line of Richardson Street; thence easterly along the center line of Richardson Street to a point 150 feet to the east of Graham Avenue/Avenue of Puerto Rico as measured from its easterly street line; thence southerly

along a line 150 feet to the east of Graham Avenue/Avenue of Puerto Rico and running parallel thereto to a point 150 feet to the north of Grand Avenue as measured from its northerly street line; thence easterly along a line 150 feet to the north of Grand Avenue and running parallel thereto to a point 80 feet to

the west of Morgan Avenue as measured from its westerly street line; thence northerly along a line 80 feet to the west of Morgan Avenue and running parallel thereto to the point where it meets the prolongation of the center line of Dickinson Street; thence easterly along the prolongation of the center line of Dickinson Street to the point where it meets the center line of Morgan Avenue; thence northerly along the center line of Morgan Avenue to the point where it meets the center line of Frost Street, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheets 13b and 13a as described aforesaid; thence westerly along the center line of Frost Street to the point where it meets the center line of Kingsland Avenue/Grandparents Avenue, said line being the district boundary line between the R6 and M1-1 zoning districts as it appears on Sheet 13a as described aforesaid; thence southerly along the center line of Kingsland Avenue/Grandparents Avenue to the point where

it meets the center line of Jackson Street; thence easterly along the center line of Jackson Street to the point where it meets the center line of Debevoise Avenue; thence southerly along the center line of Debevoise Avenue to the point where it meets the center line of Maspeth Avenue; thence westerly along the center line of Maspeth Avenue to the point where it meets the center line of Kingsland Avenue/Grandparents Avenue; thence northerly along the center line of Kingsland Avenue/Grandparents Avenue to the point where it meets the center line of Meeker Avenue; thence northeasterly along the center line of Meeker Avenue to the point and place of beginning.

There are two subzones:

(1) BEGINNING at the point of intersection of the southerly U.S. pierhead and bulkhead line of the Newton Creek and a point 120 feet to the east of Manhattan Avenue as measured from its easterly street line; thence southerly along a line 120 feet to the east of Manhattan Avenue and running parallel thereto to the point where it meets the center line of Ash Street; thence easterly along the center line of Ash Street to the point where it meets the center line of the Pulaski Bridge; thence southerly along the center line of the Pulaski Bridge to the point where it meets the center line of Clay Street; thence easterly along the center line of Clay Street to the point where it meets the center line of Paidge Avenue; thence southeasterly along the center line of Paidge Avenue to the point where it meets the center line of Provost Street; thence southerly along the center line of Provost Street to the point where it meets the center line of Greenpoint Avenue; thence easterly along the center line of Greenpoint Avenue to the point where it meets the center line of Jewel Street, said line being the district boundary line between the M3-1 and M1-1 zoning districts as it appears on Sheet 13a of the Zoning Map of the New York City Planning Commission as amended effective October twenty-fifth, nineteen hundred ninety-five (A-1699), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Jewel Street to the point where it meets the center line of Calver Street; thence westerly along the center line of Calver Street to the point where it meets the center line of Newel Street; thence northerly along the center line of Newel Street to a point 100 feet to the south of Greenpoint Avenue as measured from its southerly street line; thence westerly along a line 100 feet to the south of Greenpoint Avenue and running parallel thereto to the point where it meets the center line of Leonard Street; thence southerly along the center line of Leonard Street to the point where it meets the center line of Norman Avenue, said line being the district boundary line between the C4-3 and R6 zoning districts as it appears on Sheet 13a as described aforesaid; thence easterly along the center line of Norman Avenue to a point 100 feet to the west of Manhattan Avenue as measured from its westerly street line, said line being the district boundary line between the C4-3 and R6 zoning districts as it appears on Sheet 13a as described aforesaid; thence northerly along a line 100 feet to the west of Manhattan Avenue and running parallel thereto to the point where it meets the center line of Kent Street; thence easterly along the center line of Kent Street to the point where it meets the prolongation of the center line of Leonard Street, said line being the district boundary line between the C4-3 and R6 zoning districts as it appears on Sheet 13a as described aforesaid; thence southerly along the prolongation of Leonard Street to the point where it meets the center line of Greenpoint Avenue, said line being the district boundary line between the C4-3 and R6 zoning districts as it appears on Sheet 13a as described aforesaid; thence easterly along the center line of Greenpoint Avenue to a point 200 feet to the east of McGuinness Boulevard as measured from its

easterly street line; thence northerly along a line 200 feet to the east of McGuinness Boulevard and running parallel thereto to the point where it meets the center line of Dupont Street; thence westerly along the center line of Dupont Street to the point where it meets the center line of the Pulaski Bridge; thence northerly along the center line of the Pulaski Bridge to the point where it meets the center line of Box Street; thence westerly along the center line of Box Street to the point where it meets the center line of Commercial Street, said line being the district boundary line between the M1-1 and M3-1 zoning districts as it appears on Sheet 13a as described aforesaid and Sheet 12c of the Zoning Map of the New York City Planning Commission as amended effective December twelfth, nineteen hundred ninety-five (A-1700 and A-1703), as contained in the Zoning Resolution of the City of New York, thence southerly from the point of intersection of Box Street and Commercial Street to a point 100 feet to the south of Box Street as measured from its southerly street line; thence westerly along a line 100 feet to the south of Box Street and running parallel thereto for 78 feet; thence northerly along said line to the point where it meets the center line of Commercial Street; thence westerly along the center line of Commercial Street to the point where it meets the center line of Box Street; thence northerly from the point of intersection of Commercial Street and Box Street to the point where it meets the southerly U.S. pierhead and bulkhead line of the Newton Creek; thence easterly along said U.S. pierhead and bulkhead line to the point and place of beginning.

(2) BEGINNING at the point of intersection of the prolongation of the center line of Hudson Avenue and the southerly U.S. pierhead and bulkhead line of the East River; thence easterly along said U.S. pierhead and bulkhead line to the point where it meets the westerly U.S. pierhead and bulkhead line of the Wallabout Channel; thence southerly and thence northerly along said U.S. pierhead and bulkhead line to the point where it meets the Wallabout Channel Barge Basin; thence southeasterly and thence northwesterly along the Wallabout Channel Barge Basin to the point where it meets the easterly U.S. pierhead and bulkhead line of the Wallabout Channel; thence northerly along said U.S. pierhead and bulkhead line to a point 375 feet to the south of the prolongation of the southerly street line of Division Avenue; thence easterly along a line 375 feet to the south of the prolongation of the southerly street line of Division Avenue and running parallel thereto to the point where it meets the center line of Kent Street; thence southeasterly along the center line of Kent Street to the point where it meets the center line of Williamsburgh Street, said line being the district boundary line between the M3-1 and M1-2 zoning districts, the M3-1 and R6 zoning districts and the M3-1 and M1-2 zoning districts as it appears on Sheet 12d of the Zoning Map of the New York City Planning Commission as amended effective September first, nineteen hundred ninety (A-1319), as contained in the Zoning Resolution of the City of New York; thence southerly along the center line of Williamsburgh Street to the point where it meets the center line of Flushing Avenue, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence westerly along the center line of Flushing Avenue to the point where it meets the center line of North Oxford Street, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence northerly along the center line of North Oxford Street and its prolongation to a point 400 feet to the north of Flushing Avenue as measured from its northerly street line, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence westerly along a line 400 feet to the north of Flushing Avenue and running parallel thereto to a point 400 feet to the east of Navy Street as measured from its easterly street line, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence northerly along a line 400 feet to the east of Navy Street and its prolongation and running parallel thereto to the point where it meets the center line of Litile Street, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence northerly along the center line of Litile Street to the point where it meets the center line of Plymouth Street, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence westerly along the center line of Plymouth Street to the point where it meets the center line of Hudson Avenue, said line being the district boundary line between the M3-1 and M1-2 zoning districts as it appears on Sheet 12d as described aforesaid; thence northerly along the center line of Hudson Avenue and its prolongation to the point and place of beginning.

c. The following areas shall not be included in the empire zone: (1) BEGINNING at the point of intersection of Grand Avenue and Waterbury Street; thence southerly along the center line of Waterbury Street to the point where it

meets the center line of Stagg Street, said line being the district boundary line between the M1-2 and R6 zoning districts and the M1-1 and R6 zoning districts as it appears on Sheet 13b of the Zoning Map of the New York City Planning Commission as amended effective April twenty-first, nineteen hundred ninety-three (A-1653), as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Stagg Street to a point 350 feet to the east of Bushwick Avenue as measured from its easterly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence southerly along a line 350 feet to the east of Bushwick Avenue and running parallel thereto to the point where it meets the center line of Meserole Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Meserole Street to a point 150 feet to the east of Bushwick Avenue as measured from its easterly street line, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence southerly along a line 150 feet to the east of Bushwick Avenue and running parallel thereto to the point where it meets the center line of Johnson Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence easterly along the center line of Johnson Avenue to the point where it meets the center line of Bushwick Place; thence southerly along the center line of Bushwick Place and its prolongation to the point where it meets the center line of McKibbin Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence easterly along the center line of McKibbin Street to the point where it meets the center line of White Street, said line being the district boundary line between the M1-1 and R6 zoning districts and the M1-2 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence southerly along the center line of White Street to the point where it meets the center line of Seigel Street, said line being the district boundary line between the M1-2 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Seigel Street to a point 100 feet to the northeast of Bushwick Avenue as measured from its easterly street line, said line being the district boundary line between the M1-2 and R6 zoning districts and the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence southeasterly along a line 100 feet to the northeast of Bushwick Avenue and running parallel thereto to the point where it meets the center line of Varet Street, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Varet Street to the point where it meets the center line of Bushwick Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence southerly along the center line of Bushwick Avenue to the point where it meets the center line of Flushing Avenue, said line being the district boundary line between the M1-1 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along the center line of Flushing Avenue to the point when it meets the center line of Humboldt Street, said line being the district boundary line between the M1-1 and R6 zoning districts and the C4-3 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence northerly along the center line of Humboldt Street to a point 60 feet to the south of Debevoise Street as measured from its southerly street line, said line being the district boundary line between the C4-3 and R6 zoning districts as it appears on Sheet 13b as described aforesaid; thence westerly along a line 60 feet to the south of Debevoise Street and running parallel thereto to a point 150 feet to the east of Graham Avenue/Avenue of Puerto Rico as measured from its easterly street line; thence northerly along a line 150 feet to the east of Graham Avenue/Avenue of Puerto Rico and running parallel thereto to the point where it meets the center line of Varet Street; thence easterly along the center line of Varet Street to the point where it meets the center line of Humboldt Street; thence northerly along the center line of Humboldt Street to the point where it meets the center line of Moore Street; thence westerly along the center line of Moore Street to a point 150 feet to the east of Graham Avenue/Avenue of Puerto Rico as measured from its easterly street line; thence northerly along a line 150 feet to the east of Graham Avenue/Avenue of Puerto Rico and running parallel thereto to a point 150 feet to the south of Grand Avenue as measured from its southerly street line; thence easterly along a line 150 feet to the south of Grand Avenue and running parallel thereto to the point where it meets the center line of Bushwick Avenue; thence northerly along the center line of Bushwick Avenue to the point where it meets the center line of Grand Avenue; thence easterly along the center line of Grand Avenue to the point and place of beginning.

(2) Any lands under water.

d. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision e of this section, the boundaries of the zone set forth in subdivisions b and c of this section shall be superseded by subdivision e of this section.

e. There is hereby established in the borough of Brooklyn an empire zone consisting of the following blocks and lots:

Area 1:

Block: 2472 Lots: 350.

Block: 2477 Lots: 1; 2; 40; 52; 60.

Block: 2478 Lots: 1; 6; 8; 12; 13; 14; 15.

Block: 2479 Lots: 1; 3; 4; 6; 7; 8; 10; 11; 12; 18; 23; 55.

Block: 2484 Lots: 1.

Block: 2489 Lots: 1; 4; 7; 14; 16; 19; 25; 45.

Block: 2491 Lots: 1; 51; 101; 136; 150; 201.

Block: 2497 Lots: 1; 2; 3; 4; 5; 6; 7; 10; 14; 19; 20; 23; 42; 44; 45; 46; 48; 50; 51; 52.

Block: 2506 Lots: 1; 2; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 17; 19; 23; 27; 30; 36; 39; 41; 44; 49; 50; 51; 52; 139.

Block: 2508 Lots: 1.

Block: 2514 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 12; 14; 15; 19; 20; 24; 27; 30; 33; 40; 43; 44; 45; 47; 52.

Block: 2515 Lots: 1; 13; 25.

Block: 2517 Lots: 2; 12; 14; 27; 35; 40; 150.

Block: 2524 Lots: 1; 4; 7; 8; 10; 12; 14; 16; 17; 24; 26; 28; 32; 37; 39; 42; 46; 54; 56.

Block: 2527 Lots: 2.

Block: 2534 Lots: 1; 4; 6; 7; 8; 10; 11; 12; 13; 16; 20; 22; 27; 39; 40; 42; 43; 44; 45; 46; 47; 49; 50; 51; 52.

Block: 2542 Lots: 1; 2; 3; 4; 5; 6; 7; 11; 13; 15; 16; 17; 18; 22; 28; 37; 38; 39; 41; 43; 46; 49; 50; 51; 52; 104.

Block: 2552 Lots: 1; 3; 5; 10; 13; 14; 15; 16; 17; 18; 19; 22; 24; 27; 37; 38; 39; 40; 42; 43; 47.

Block: 2560 Lots: 1; 11; 25; 32; 38; 41; 46; 49; 50.

Block: 2577 Lots: 1; 24.

Block: 2578 Lots: 1.

Block: 2580 Lots: 1.

Block: 2581 Lots: 1; 10; 12; 19; 28.

Block: 2582 Lots: 1; 4.

Block: 2583 Lots: 1; 12; 50.

Block: 2584 Lots: 1; 15.

Block: 2585 Lots: 1.

Block: 2600 Lots: 1; 12; 17; 18.

Block: 2601 Lots: 1; 12; 14; 18; 21; 22; 24.

Block: 2602 Lots: 1; 5; 8; 12; 16; 17; 21; 24.

Block: 2603 Lots: 1.

Block: 2604 Lots: 1; 8.

Block: 2605 Lots: 1; 13; 17; 28; 30.

Block: 2607 Lots: 1; 6; 50; 52; 54; 56; 59; 65; 68; 73; 75; 78; 81; 84; 94; 95; 100; 105.

Block: 2608 Lots: 1; 25; 50; 78; 79; 82; 84; 85; 89; 90; 91; 92; 95; 99.

Block: 2612 Lots: 1; 20; 75; 125; 133; 136; 140; 143; 145.

Block: 2626 Lots: 1; 15; 19.

Block: 2627 Lots: 1; 22; 29.

Block: 2628 Lots: 1; 6; 10; 15; 17; 21; 28; 30; 38; 43; 50; 54; 57; 59; 60.

Block: 2629 Lots: 1; 6; 11; 17; 24; 25; 30; 35; 39; 48; 53; 55; 58.

Block: 2658 Lots: 1; 10; 21; 48; 52; 60.

Block: 2659 Lots: 1; 12; 16; 26; 29; 32; 44; 62.

Block: 2660 Lots: 1; 20; 30; 50.

Block: 2661 Lots: 1; 5; 15; 16; 27; 31; 34; 44; 46; 48; 50.

Block: 2662 Lots: 1; 3; 4; 6; 8; 10; 11; 14; 16; 18; 20; 22; 24; 26; 28; 30; 32; 34; 36; 38; 40; 50; 53; 54.

Block: 2663 Lots: 1; 7; 10; 14; 16; 17; 28.

Block: 2664 Lots: 1; 4; 7; 9; 16; 25; 47; 51; 127.

Block: 2666 Lots: 1; 52; 101; 125; 201.

Block: 2693 Lots: 1; 10; 12; 13; 15; 16; 17; 50; 51; 115; 116.

Block: 2694 Lots: 1; 2; 5; 6; 7; 11; 15; 21; 22; 25; 38; 42; 46.

Block: 2797 Lots: 1; 2; 4; 5; 9; 11; 17; 21; 26; 31; 34; 40.

Block: 2798 Lots: 1; 5; 13; 30.

Block: 2799 Lots: 1; 25.

Block: 2800 Lots: 1; 11; 13; 16; 21; 28.

Block: 2801 Lots: 1; 5; 10; 21; 30; 32.

Block: 2802 Lots: 1; 10; 11; 14; 32.

Block: 2803 Lots: 1; 7; 14; 25.

Block: 2805 Lots: 1; 5; 12; 17; 25.

Block: 2806 Lots: 1; 7; 15; 18; 20.

Block: 2807 Lots: 1; 5; 10.

Block: 2808 Lots: 1; 3; 25; 30.

Block: 2809 Lots: 1.

Block: 2810 Lots: 1; 24; 29; 34; 37.

Block: 2811 Lots: 1; 14.

Block: 2812 Lots: 1; 3; 5; 26.

Block: 2813 Lots: 1.

Block: 2814 Lots: 1; 6; 10; 18.

Block: 2815 Lots: 1; 2; 3; 50; 60.

Block: 2817 Lots: 1.

Block: 2818 Lots: 1; 5; 14; 18; 24; 32.

Block: 2819 Lots: 8; 11; 25; 31; 33; 36.

Block: 2820 Lots: 1; 5; 21; 28.

Block: 2821 Lots: 1; 11; 18.

Block: 2822 Lots: 1.

Block: 2824 Lots: 10.

Block: 2834 Lots: 18; 23; 34; 46; 49; 54; 147.

Block: 2835 Lots: 1; 2; 3; 4; 5; 9; 12; 20; 21; 22; 23; 24; 25; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 104.

Block: 2836 Lots: 11; 12; 20; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 43; 44.

Block: 2840 Lots: 11; 13; 17; 18; 20; 21; 22.

Block: 2841 Lots: 1; 6; 8; 10; 18; 20; 30; 35.

Block: 2842 Lots: 1; 2; 3; 6; 10; 12; 15; 16; 19; 24; 25; 26; 27; 28; 30; 36; 38; 40.

Block: 2843 Lots: 1; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23.

Block: 2849 Lots: 9; 10; 15; 19; 21; 24; 120.

Block: 2850 Lots: 1; 10; 14; 19; 23; 24; 36.

Block: 2851 Lots: 1; 10; 15; 60; 70.

Block: 2858 Lots: 1; 12; 15; 16; 17; 21; 23; 27.

Block: 2859 Lots: 1; 5; 11; 16.

Block: 2860 Lots: 1; 25.

Block: 2869 Lots: 1; 5; 11; 26; 28; 31; 33.

Block: 2878 Lots: 1; 6; 16; 18; 24; 29.

Block: 2887 Lots: 1; 12.

Block: 2896 Lots: 1; 16; 22.

Block: 2909 Lots: 1; 8; 15; 30; 101; 106.

Block: 2913 Lots: 38; 42; 45; 47.

Block: 2914 Lots: 1; 4; 6; 16; 35; 40.

Block: 2918 Lots: 12; 19; 26.

Block: 2924 Lots: 19; 21; 23; 27; 29; 37; 43.

Block: 2925 Lots: 1; 37.

Block: 2926 Lots: 9; 12; 13; 15; 16.

Block: 2927 Lots: 1; 10; 15; 25; 42; 44; 54; 57; 90; 100; 110; 123; 125; 140; 150; 168; 175; 190; 300; 310; 325.

Block: 2928 Lots: 1; 20; 30.

Block: 2929 Lots: 1; 42; 44; 46; 53; 57; 69; 74; 90.

Block: 2930 Lots: 5; 12; 90; 120; 128; 136.

Block: 2942 Lots: 1; 5; 12; 25; 33; 39; 44; 48; 49; 60; 101; 105; 111; 112; 160; 201; 207; 220; 221; 223; 301.

Block: 2943 Lots: 1; 2; 25.

Block: 2944 Lots: 11.

Block: 2945 Lots: 1; 8; 10; 15; 16; 18.

Block: 2946 Lots: 1.

Block: 2948 Lots: 1; 8; 12; 13; 17; 35; 85.

Block: 2950 Lots: 1; 7; 20; 44.

Block: 2951 Lots: 1; 5; 16; 45.

Block: 2952 Lots: 1.

Block: 2953 Lots: 1; 80; 90; 110.

Block: 2957 Lots: 1; 6; 8; 12; 14; 23; 30; 35.

Block: 2958 Lots: 1; 14; 15.

Block: 2962 Lots: 1; 5; 11; 37.

Block: 2963 Lots: 1; 12; 16; 25; 39.

Block: 2964 Lots: 1; 14; 15; 20; 21; 44; 50; 54; 7501.

Block: 2966 Lots: 1; 3; 4; 9; 11; 110; 125.

Block: 2967 Lots: 1; 50.

Block: 2968 Lots: 1; 20.

Block: 2969 Lots: 1; 6; 14; 18; 22; 30.

Block: 2971 Lots: 1; 5; 15; 30.

Block: 2974 Lots: 1; 51; 105; 115; 159; 162; 170; 200.

Block: 2976 Lots: 1; 41; 43; 45; 60.

Block: 2977 Lots: 1; 14; 15; 16; 35; 46.

Block: 2978 Lots: 1; 22; 41; 46; 78.

Block: 2979 Lots: 1; 5; 7; 24; 25; 27; 43; 45; 50; 60; 64; 75; 107; 175.

Block: 2987 Lots: 3; 6; 16.

Block: 2988 Lots: 1; 14; 25; 37; 42; 49.

Block: 2989 Lots: 1; 9; 14; 20; 22; 32; 42.

Block: 2990 Lots: 1; 8; 10; 11; 12; 36; 42; 50.

Block: 2991 Lots: 1; 3; 5.

Block: 2992 Lots: 1; 4; 8; 10; 12; 13; 14; 15; 17; 21; 25; 33; 43; 55; 58; 60; 61.

Block: 2993 Lots: 1; 11; 18.

Block: 2994 Lots: 1; 9; 11; 33; 75; 90; 105.

Block: 2995 Lots: 1; 6; 11; 12; 16; 21; 28; 30.

Block: 2996 Lots: 1; 10; 15; 16; 21; 22; 31; 32; 33; 37; 40; 46; 101.

Block: 2997 Lots: 1; 4; 5; 6; 7; 8; 10; 13; 14; 15; 16.

Block: 2998 Lots: 1; 3; 12; 15; 19; 21; 23; 28; 34; 45; 47; 49; 50; 51; 53; 54.

Block: 2999 Lots: 1; 10; 14; 24.

Block: 3001 Lots: 1; 16.

Block: 3002 Lots: 1; 3; 11; 12.

Block: 3003 Lots: 1; 3; 4; 5; 6; 7; 8; 10; 11; 12; 18; 24; 25; 26; 27.

Block: 3004 Lots: 1; 16; 17; 18; 19; 20; 21; 22; 23; 24; 26; 27; 28; 29; 30; 32; 33; 34; 35; 36; 37; 38; 39; 40; 41; 42; 44; 45; 46.

Block: 3005 Lots: 1; 10; 15; 20; 22; 23; 24; 31; 34.

Block: 3007 Lots: 1; 3.

Block: 3008 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 11; 12; 13; 14; 15; 16; 17; 20; 21; 22; 31.

Block: 3009 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 21; 23; 25; 33.

Block: 3010 Lots: 1; 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 18; 19; 20; 21; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; 36; 37.

Block: 3012 Lots: 1; 2; 3; 4; 5; 6; 8; 9; 11; 14; 24; 26; 27; 28; 29; 30; 31; 32.

Block: 3013 Lots: 1; 12; 13; 15; 20; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35.

Block: 3014 Lots: 1; 3; 7; 8; 14.

Block: 3015 Lots: 1; 4; 5; 6; 8; 10.

Block: 3019 Lots: 1; 8; 13; 18; 20; 23; 25; 27; 33; 35; 40; 60; 63; 64; 67; 68; 69; 71; 72; 73; 76; 79; 81; 82; 84; 85.

Block: 3021 Lots: 1; 11; 13; 14; 15; 16; 17; 20; 22; 23; 24; 25; 26; 30; 31; 37; 47; 57; 65; 70; 77; 78; 85; 131; 132.

Block: 3029 Lots: 1; 6; 13; 16; 18; 21; 27; 30; 33; 38; 45; 61; 65; 74; 75; 77; 90; 105; 109; 115; 120.

Block: 3030 Lots: 1; 3; 7; 10; 12; 13; 14; 17; 20; 22; 23; 29; 30.

Block: 3037 Lots 30; 40; 42; 43.

Block: 3038 Lots: 1; 6; 7; 8; 15; 17; 18; 19; 21; 22; 23; 27; 30; 33; 35; 39; 41.

Block: 3039 Lots: 1; 3; 8; 14; 15; 20; 23; 29; 33.

Block: 3046 Lots: 22; 24; 26; 27; 28; 30; 31; 35; 38; 40; 42; 46; 47; 48; 49.

Block: 3047 Lots: 1; 4; 7; 14; 15; 38.

Block: 3048 Lots: 1; 7; 11; 14; 20; 24; 26; 29.

Block: 3056 Lots: 1; 9; 14; 15; 32; 35; 70; 72; 74; 80; 90; 95; 140; 168; 175; 176; 183; 184; 185; 186; 187; 188; 200; 230; 232; 240.

Block: 3073 Lots: 28; 31; 32; 33; 34; 35; 42; 55; 61; 74; 79; 80; 81; 82; 83; 84; 85; 86; 87; 88; 89; 90; 91; 92; 94; 95; 97; 133.

Block: 3074 Lots: 1; 10; 12; 23.

Block: 3075 Lots: 1; 4; 9; 13; 16; 17; 21; 23; 24; 25; 26; 28; 29; 30; 31; 32; 33; 34; 35.

Block: 3082 Lots: 10; 12; 13; 14; 15; 17; 18; 19; 20; 21; 22; 23; 25; 26; 27; 28; 29; 30; 31; 33; 35; 36; 37; 38; 39; 42; 43; 45; 46; 47; 59; 61; 63; 65; 73; 89.

Block: 3083 Lots: 1; 6; 11; 16; 30.

Block: 3084 Lots: 1.

Block: 3092 Lots: 1; 22; 27.

Block: 3093 Lots: 1; 10; 11; 12; 13; 14; 15; 16; 17; 19; 20; 21; 22; 23; 24; 25; 26; 28; 29; 30; 31; 32; 33; 34.

Block: 3100 Lots: 11; 15; 22; 26; 32; 34; 35; 36; 38; 39; 40; 41; 45; 47; 56; 61; 63; 66; 67; 68; 69; 71; 74; 77; 78.

Block: 3101 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 10; 13; 14; 22; 25; 31; 32; 33; 36; 38; 39.

Block: 3102 Lots: 1; 6; 7; 8; 9; 11; 12; 13; 14; 17; 18; 20; 21; 23; 25; 26; 27; 30; 31; 34; 35; 36.

Block: 3109 Lots: 10; 11; 13; 14; 15; 16; 21; 22; 25; 30; 31; 32; 33; 35; 36; 49; 50; 51; 52; 53; 59; 61; 62; 63; 64; 65; 66; 68; 70; 148.

Block: 3110 Lots: 1; 5; 10; 15; 25; 28; 32; 33; 35.

Block: 3111 Lots: 28.

Block: 3117 Lots: 1; 4; 5; 6; 7; 8; 10; 12; 16; 17; 18; 20; 21; 22; 24; 29; 37; 42; 49.

Block: 3118 Lots: 1; 5; 9; 14; 16; 17; 18; 19; 20; 22; 23; 25; 29; 30; 32; 35; 121.

Block: 3123 Lots: 1; 2; 5; 6; 7; 9; 12; 14; 15; 16; 17; 19; 23; 31; 32; 37; 52; 59; 62; 64; 65; 66; 67.

Block: 3124 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 13; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24.

Block: 3125 Lots: 7.

Block: 3155 Lots: 27.

Block: 3159 Lots: 1; 2; 7; 8; 10; 11; 13; 14; 15; 16; 17; 18; 19; 20; 21; 32; 38; 39; 40; 41; 42; 43; 44; 45.

Block: 3167 Lots: 1; 6; 7; 8; 12; 18; 24; 26; 29; 40; 68; 69.

Block: 3168 Lots: 1; 14.

Block: 3169 Lots: 1; 17.

Block: 3176 Lots: 1; 5; 11; 13; 15; 21; 23; 24; 32; 34; 36; 38; 41; 42; 44; 50; 51; 52; 53; 54; 55; 56; 57; 59; 146.

Block: 3177 Lots: 1; 2; 3; 4; 10; 11; 12; 13; 14; 15; 20; 22; 23; 24; 25; 30.

Block: 3178 Lots: 2; 3; 6; 10; 12; 17; 18; 20; 23; 30.

Block: 3188 Lots: 1; 2; 3; 5; 6; 7; 8; 9; 10; 15; 18; 23; 24; 27; 28; 29; 30; 31; 32; 34; 35; 37; 40; 41; 43; 44; 45; 46; 47; 48; 51; 52; 53; 56; 62; 70; 144.

Block: 3189 Lots: 1; 2; 3; 4; 5; 15; 16; 20; 21; 22; 23; 24; 25; 26; 27; 29; 30; 31; 32; 33; 34; 35; 36; 37.

Block: 3190 Lots: 1; 2; 3; 4; 5; 6; 7; 8; 12; 14; 37; 45.

Block: 3199 Lots: 14; 15; 16; 19; 26; 30; 32; 34; 36; 37; 38; 39; 40; 42; 43; 44; 45; 46; 54; 55; 56.

Block: 3200 Lots: 1; 11; 19; 35.

Block: 3210 Lots: 15; 16; 17; 18; 19; 20; 21; 22; 23; 25; 26; 27; 29; 31; 33; 34; 35; 36; 37; 38; 40; 41; 47; 48; 51.

Block: 3221 Lots: 22; 23; 31; 35; 48; 122.

Block: 3237 Lots: 22; 23; 27; 31; 33; 38; 41.

Area 2:

Block: 2278 Lots: 1; 2.

Block: 2279 Lots: 1; 9; 13; 15; 24; 26; 34.

Block: 2282 Lots: 1; 15; 28; 34.

Block: 2283 Lots: 1; 10; 25; 28; 31; 33; 35; 38; 41; 43.

Block: 2288 Lots: 1; 13; 18; 24.

Block: 2289 Lots: 1; 14; 23; 33.

Block: 2295 Lots: 1; 3; 4; 6; 7; 8; 9; 18; 19; 21; 24; 28; 29; 30; 31; 107.

Block: 2296 Lots: 1; 4; 7; 11; 14; 37.

Block: 2302 Lots: 1; 6; 28; 29; 34; 35; 41.

Block: 2303 Lots: 1; 7; 8; 9; 19; 22; 24; 25; 26; 27; 28; 29; 30; 31; 36; 40.

Block: 2592 Lots: 1; 3; 5; 6; 11; 14; 15; 16; 20; 26; 30; 37; 40.

Block: 2593 Lots: 1; 8; 15; 16; 18; 19; 21; 34; 35; 36; 37.

Block: 2594 Lots: 1.

Block: 2613 Lots: 1; 20; 28; 38.

Block: 2614 Lots: 1; 3; 8; 16; 19; 24.

Block: 2615 Lots: 1; 6; 19; 21; 25; 50; 125.

Block: 2616 Lots: 1; 6; 7; 8; 9; 12; 14; 17; 18; 31; 45; 56; 60.

Block: 2617 Lots: 1; 38; 42; 50; 52; 57.

Block: 2639 Lots: 5; 7.

Block: 2640 Lots: 1.

Block: 2641 Lots: 1; 3; 4.

Block: 2642 Lots: 1; 11; 18; 22; 24; 25; 26; 27; 32; 52; 122.

Block: 2643 Lots: 1; 8; 12; 13; 14; 15; 16; 17; 19; 20; 21; 24; 25; 26; 27; 29; 45; 47; 48; 50; 52; 54; 56.

Area 3:

Block: 2023 Lot: 1; 10; 50; 110; 125; 150.

HISTORICAL NOTE

Section heading "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Section added L.L. 92/1997 § 1, eff. Dec. 2, 1997 and retroactive to Sept. 29, 1997.

Subd. a "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. c open par "economic development zone" redesignated "empire zone" by the Legislative Bill Drafting Commission per Memorandum of Instruction issued per chap 63/2000 § GG15.

Subd. d added L.L. 45/2006 § 18, eff. Nov. 9, 2006. [See Note 1]

Subd. e amended L.L. 45/2007 § 2, eff. Sept. 5, 2007 and deemed to have been in full force and effect on Nov. 9, 2006. [See Note 2]

Subd. e added L.L. 45/2006 § 18, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 17. (a) By Local Law No. 92 for the year 1997, adopted on December 2, 1997, the council of the city of New York authorized an application for the designation of the Brooklyn Navy Yard/North Brooklyn economic development zone relative to certain land within the borough of Brooklyn.

(b) The city of New York has received economic development zone approval from New York state.

(c) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Brooklyn Navy Yard/North Brooklyn economic development zone is now known as the Brooklyn Navy Yard/North Brooklyn empire zone.

(d) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Brooklyn Navy Yard/North Brooklyn empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(e) The Brooklyn Navy Yard/North Brooklyn empire zone has been configured into three distinct and separate contiguous areas. Such areas are described by block and lot in subdivision e of section 22-713 of the administrative code of the city of New York, as added by section eighteen of this local law.

(f) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Brooklyn as the Brooklyn Navy Yard/North Brooklyn empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(g) Pursuant to Article 18-B of the General Municipal Law, the Brooklyn Navy Yard/North Brooklyn Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the Brooklyn Navy Yard/North Brooklyn Empire Zone Certification Officer.

2. Provisions of L.L. 45/2007:

Section 1. (a) By Local Law No. 92 for the year 1997, the council of the city of New York authorized an application for the designation of the Brooklyn Navy Yard/North Brooklyn economic development zone relative to certain land within the borough of Brooklyn.

(b) The city of New York received approval from New York state of that economic development zone designation.

(c) Pursuant to section 15 of part GG of chapter 63 of the laws of 2000, the Brooklyn Navy Yard/North Brooklyn economic development zone is now known as the Brooklyn Navy Yard/North Brooklyn empire zone.

(d) Pursuant to subdivision d of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the Brooklyn Navy Yard/North Brooklyn empire zone, had to be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision a-3 of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas had to be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone had to be submitted in accordance with section 961 of the

General Municipal Law.

(e) The Brooklyn Navy Yard/North Brooklyn empire zone was configured into three distinct and separate contiguous areas. Accordingly, the city of New York was authorized to submit an application for redesignation of such areas within the borough of Brooklyn as the Brooklyn Navy Yard/North Brooklyn empire zone. Such areas were described by block and lot in subdivision e of section 22-713 of the administrative code of the city of New York, as added by section eighteen of Local Law No. 45 for the year 2006.

(f) By Local Law No. 45 for the year 2006, which became effective on November 9, 2006, the council of the city of New York authorized an application for the redesignation of the Brooklyn Navy Yard/North Brooklyn empire zone consistent with that reconfiguration as described in subdivision e of section one of this local law, such application was submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board and the city of New York received approval from New York state for that redesignation.

(g) There were certain parcels of land that had been included within the Brooklyn Navy Yard/North Brooklyn Economic Development Zone and the Brooklyn Navy Yard/North Brooklyn Empire Zone that were intended to be included within the area for which an application for redesignation was authorized by Local Law No. 45 for the year 2006, but which were inadvertently omitted from such local law. The city of New York is authorized to submit an application for a technical correction of the boundary description of the Brooklyn Navy Yard/North Brooklyn empire zone to include those parcels of land inadvertently omitted and shall be described by block and lot in and be added to subdivision e of section 22-713 of the administrative code of the city of New York, as added by section eighteen of Local Law No. 45 for the year 2006. Such application for this technical correction shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-714

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-714 West Shore empire zone.

a. In accordance with subdivision a of section nine hundred sixty-one of the general municipal law, the preparation and submission of an application by the city of New York to the commissioner of the New York state department of economic development for designation of an area within such city as an empire zone is hereby authorized. Upon designation of such area as an empire zone, such area shall be known as the West Shore empire zone.

b. Except as provided in subdivision c of this section, such area shall consist of the following blocks and lots:

Block 1183; Lots: 17; 22; 191; and 222.

Block 1198; Lots: 7; 10; 116; 120; and 121.

Block 1200; Lots: 1; 8; 10; and 13.

Block 1222; Lots: 1 and 100.

Block 1223; Lots: 1; 105; and 110.

Block 1226; Lots: 1; 3; 5; 7; 11; 57; 70; 74; 77; 78; 79; 83; and 87.

Block 1234; Lots: 1; 106; 116; 119; 123; 130; and 194.

Block 1237; Lots: 100; 125; 127; 128; 132; 137; 138; 139; 141; 142; 143; 144; 145; 146; 148; 150; 152; 153;

154; 155; 157; 160; 161; 164; and 165.

Block 1249; Lots: 1; 6; 71; 72; 75; 77; 79; 80; 82; 83; 85; 87; 90; 93; 110; 114; 130; 135; 137; 138; 140; 141; and 143.

Block 1250; Lots: 11; 20; and 83.

Block 1256; Lots: 1; 39; 40; 69; 81; 86; 87; and 92.

Block 1257; Lots: 1; 6; 9; 12; 15; 16; 18; 19; 20; 22; 23; 25; 28; 31; 36; 58; 59; 60; 64; 65; 68; 70; 71; 74; 75; 80; 81; 82; and 83.

Block 1266; Lots: 1; 11; 16; 17; 20; 27; 56; 59; 61; and 69.

Block 1267; Lots: 1; 9; 11; 14; 16; 19; 21; and 23.

Block 1268; Lots: 60; 209; 212; 215; 216; 217; 220; 223; 224; 229; 230; 231; 234; 237; 240; 245; 270; and 278.

Block 1270; Lots: 12; 13; 17; 20; 21; 25; 29; 48; 50; 52; 54; 128; 142; 143; 144; 147; 151; 165; and 170.

Block 1278; Lot: 1001.

Block 1284; Lot: 200.

Block 1290; Lots: 1; 7; 9; 15; 26; 50; 61; 63; 64; 66; 70; 80; 85; 92; 94; 99; 101; 145; 200; 203; 213; 230; 235; 258; 260; 264; 305; 306; 311; 313; 315; 320; 348; 350; 352; 354; 356; 367; 369; 373; 381; 382; and 386.

Block 1318; Lots: 223 and 224.

Block 1348; Lots: 56; 75; 83; 89; 94; 96; 102; 105; 109; 110; and 9999.

Block 1380; Lots: 1; 16; 30; 36; 41; 47; 51; 57; 58; 60; 61; 66; 70; 100; 106; 120; and 150.

Block 1384; Lots: 1; 3; 5; 9; 20; 21; 37; 41; 46; 48; and 150.

Block 1392; Lots: 1; 2; 46; 90; 100; 110; 115; and 120.

Block 1394; Lots: 20; 35; and 50.

Block 1396; Lots: 1; 6; 8; 11; and 15.

Block 1397; Lot: 1.

Block 1685; Lots: 85; 96; 104; 106; and 108.

Block 1696; Lot: 8.

Block 1707; Lots: 1; 5; 41; 45; and 46.

Block 1708; Lots: 47 and 50.

Block 1715; Lot: 1.

Block 1717; Lots: 40; 50; 56; 58; 59; 64; 67; 70; 72; 73; 76; 84; 95; 140; 155; 175; and 225.

Block 1725; Lot: 75, north of the prolongation of the center line of Crane Avenue.

Block 1760; Lots: 1; 46; 63; 110; 116; 119; 200; 250; and 255.

Block 1780; Lots: 22; 57; 69; 85; 95; 150; 151; 164; 186; 197; 200; 240; 250; 270; and 298.

Block 1815; Lots: 190 and 191.

Block 1835; Lot: 150.

Block 1865; Lots: 38 and 55.

Block 2165; Lot: 120.

c. Such area shall not include any lands under water.

d. Upon approval by the empire zones designation board, pursuant to subdivision (a-3) of section 960 of the general municipal law, of the initial distinct and separate contiguous areas described by block and lot in subdivision e of this section, the boundaries of the zone set forth in subdivisions b and c of this section shall be superseded by subdivision e of this section.

e. There is hereby established in the borough of Staten Island an empire zone consisting of the following blocks and lots:

Area 1:

Block: 1183 Lots: 17; 22; 33; 36; 186; 191; 198; 203; 204; 205; 206; 207; 208; 219; 222; 223.

Block: 1198 Lots: 1; 20; 116; 120.

Block: 1200 Lots: 1; 8; 10; 13; 19; 20; 26; 111; 113; 114; 115.

Block: 1222 Lots: 1; 6; 93; 98; 100.

Block: 1223 Lots: 1; 105; 110.

Block: 1226 Lots: 1; 3; 5; 7; 11; 13; 57; 70; 74; 77; 78; 79; 83; 87.

Block: 1234 Lots: 106; 116; 119; 123; 130; 193; 194.

Block: 1237 Lots: 100; 125; 127; 128; 132; 137; 138; 139; 141; 142; 143; 144; 145; 146; 148; 150; 152; 153; 154; 155; 157; 160; 161; 164; 165.

Block: 1243 Lots: 30; 45; 46; 50; 53; 54.

Block: 1245 Lots: 1.

Block: 1248 Lots: 200.

Block: 1249 Lots: 1; 6; 71; 72; 75; 79; 80; 82; 83; 85; 87; 90; 93; 110; 114; 130; 135; 137; 138; 140; 141.

Block: 1250 Lots: 11; 90; 199.

Block: 1256 Lots: 1; 39; 40; 69; 81; 86; 87; 92.

Block: 1257 Lots: 1; 6; 9; 12; 15; 16; 18; 19; 20; 22; 23; 25; 28; 31; 36; 37; 38; 57; 58; 59; 60; 64; 65; 68; 70; 71; 74; 75; 80; 81; 82; 83.

Block: 1261 Lots: 82; 90.

Block: 1266 Lots: 1; 11; 16; 17; 20; 27; 32; 34; 35; 36; 37; 38; 39; 41; 42; 43; 45; 46; 49; 51; 53; 54; 56; 59; 61; 64; 69.

Block: 1267 Lots: 1; 9; 11; 14; 16; 21; 23; 33; 35; 37; 38; 119.

Block: 1268 Lots: 60; 209; 212; 215; 216; 217; 220; 223; 224; 229; 231; 234; 237; 240; 245; 270; 278.

Block: 1270 Lots: 1; 12; 13; 17; 20; 21; 25; 29; 48; 50; 52; 54; 128; 142; 143; 144; 147; 151; 165; 170.

Block: 1278 Lots: 3; 6; 7; 8; 9; 10; 460.

Block: 1284 Lots: 200.

Block: 1290 Lots: 1; 7; 9; 15; 26; 50; 61; 63; 64; 66; 70; 80; 85; 92; 94; 96; 99; 101; 145; 200; 203; 213; 230; 235; 258; 260; 264; 305; 306; 311; 313; 315; 320; 348; 350; 352; 354; 356; 367; 369; 373; 381; 382; 386.

Block: 1309 Lots: 5; 10.

Block: 1318 Lots: 202; 204; 208; 210; 214; 216; 217; 218; 219; 220; 221; 223; 224.

Block: 1348 Lots: 1; 56; 75; 83; 89; 94; 96; 102; 109; 110; 375.

Block: 1380 Lots: 1; 16; 30; 36; 41; 47; 57; 58; 60; 61; 66; 80; 150; 155; 160.

Block: 1384 Lots: 1; 3; 5; 6; 9; 20; 21; 36; 37; 41; 46; 48; 150.

Block: 1392 Lots: 1; 2; 35; 46; 90; 100; 110; 115; 120.

Block: 1394 Lots: 20; 35; 50; 82; 101; 116.

Block: 1396 Lots: 1; 6; 8; 11; 15.

Block: 1397 Lots: 1.

Block: 1400 Lots: 1; 100; 200; 300.

Block: 1410 Lots: 183; 250.

Block: 1685 Lots: 15; 20; 55; 68; 72; 74; 88; 90; 96; 104; 106; 108; 113; 116; 117.

Block: 1690 Lots: 36; 39; 42.

Block: 1691 Lots: 33; 35; 37; 39; 41; 42.

Block: 1696 Lots: 8.

Block: 1707 Lots: 1; 5; 29; 32; 33; 34; 35; 38; 41; 45; 46.

Block: 1708 Lots: 32; 35; 36; 47; 50.

Block: 1715 Lots: 1; 50; 100.

Block: 1717 Lots: 1; 40; 49; 50; 56; 58; 59; 64; 67; 70; 72; 73; 76; 84; 95; 140; 155; 175; 225.

Block: 1855 Lots: 1; 3.

Block: 1865 Lots: 38; 89.

Area 2:

Block: 1725 Lots: 75; 85; 95; 121; 195; 300; 401; 500; 510; 520; 525; 530; 550; 570; 600.

Block: 1760 Lots: 46; 110; 116; 200; 215; 250; 255.

Block: 1780 Lots: 22; 57; 69; 85; 92; 95; 150; 151; 160; 164; 186; 197; 200; 240; 298.

Block: 2165 Lots: 5; 30; 35; 50; 55; 60; 75; 85; 90; 120; 140; 160; 170; 190; 200.

Area 3:

Block: 502 Lots: 10; 20; 31; 35; 75; 150; 155.

HISTORICAL NOTE

Section added L.L. 7/2001 § 1, eff. Feb. 2, 2001.

Subd. d added L.L. 45/2006 § 20, eff. Nov. 9, 2006. [See Note 1]

Subd. e added L.L. 45/2006 § 20, eff. Nov. 9, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 45/2006:

§ 19. (a) By Local Law No. 7 for the year 2001, adopted on February 2, 2001, the council of the city of New York authorized an application for the designation of the West Shore empire zone relative to certain land within the borough of Staten Island.

(b) The city of New York has received empire zone approval from New York state.

(c) Pursuant to subdivision (d) of section 957 of the General Municipal Law, certain empire zones referred to as "investment zones", including the West Shore empire zone, must be configured into up to three distinct and separate contiguous areas. Pursuant to subdivision (a-3) of section 960 of the General Municipal Law, the initial distinct and separate contiguous areas must be approved by the empire zones designation board. An application for redesignation of such areas as an empire zone must be submitted in accordance with section 961 of the General Municipal Law.

(d) The West Shore empire zone has been configured into three distinct and separate contiguous areas. Such areas are described by block and lot in subdivision e of section 22-714 of the administrative code of the city of New York, as added by section twenty of this local law.

(e) Accordingly, the city of New York is authorized to submit an application for redesignation of such areas within the borough of Staten Island as the West Shore empire zone. Such application shall be submitted to the New York state commissioner of economic development for ultimate approval by the empire zones designation board.

(f) Pursuant to Article 18-B of the General Municipal Law, the West Shore Empire Zone Administrative Board as presently constituted is hereby continued. Pursuant to subdivision (a) of section 963 of the General Municipal Law, the chairperson of the New York City Economic Development Corporation shall be the West Shore Empire Zone Certification Officer.

FOOTNOTES

5

[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-715

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-715 Chinatown/Lower East Side Empire Zone.

a. Upon approval of the application for designation of the area set forth in subdivision d of this section as an empire zone, such area shall constitute and be known as the Chinatown/Lower East Side empire zone.

b. There shall be a local empire zone certification officer for the Chinatown/Lower East Side empire zone and the chairman of the New York City economic development corporation shall serve as such local empire zone certification officer. The duties of such local empire zone certification officer shall be those set forth in article 18-B of the general municipal law and shall include the duty to jointly certify and decertify, together with the New York state commissioner of economic development and the New York state commissioner of labor, those business enterprises eligible to receive the benefits referred to in section nine hundred sixty-six of the general municipal law, and any other applicable laws.

c. There shall be a local empire zone administrative board consisting of at least six members to be appointed by the mayor. The members shall include a representative of local businesses, organized labor, community organizations, financial institutions, local educational institutions, and at least one resident of the Chinatown/Lower East Side empire zone, but shall not include the local empire zone certification officer. The commissioner of small business services shall be a member of the local empire zone administrative board of the board and shall serve as its chair. The board shall perform all duties required of it pursuant to subdivision b of section nine hundred sixty-three of the general municipal law.

d. The boundaries of the Chinatown/Lower East Side empire zone are as follows:

Beginning at the point of intersection of the eastern line of Broadway and the southern line of East Houston Street; thence easterly along the southern line of East Houston Street to the bulkhead line of the East River; thence southerly along the bulkhead line of the East River to the point where it meets the center line of Robert F. Wagner, Sr. Place; thence westerly along the center line of Robert F. Wagner, Sr. Place and the Avenue of the Finest to the point where it meets the center line of Madison Street; thence northeasterly along the center line of Madison Street to the point where it meets the centerline of Pearl Street; thence northwesterly along the center line of Pearl Street to the point where it meets the center line of Park Row, said line being the district boundary line between the R7-2 and C6-4 zoning districts as it appears on Sheet 12d of the Zoning Map of the New York City Planning Commission as amended effective May eleventh, two thousand and five (A-1782), as contained in the Zoning Resolution of the City of New York; and as it appears on Sheet 12b of the Zoning Map of the New York City Planning Commission as amended effective April thirtieth, two thousand and three (A-1762), as contained in the Zoning Resolution of the City of New York; thence westerly along the center line of Park Row to the point where it meets the center of Police Plaza, said line being the district boundary line between the R7-2 and C6-1 zoning districts as it appears on Sheets 12d as described aforesaid and Sheet 12c of the Zoning Map of the New York City Planning Commission as amended effective May eleventh, two thousand and five (A-1731), as contained in the Zoning Resolution of the City of New York; thence northerly along the center of Police Plaza to the point where it meets the center line of St. Andrews Plaza; thence northerly along the center line of St. Andrews Plaza to the point where it meets the center line of Centre Street; thence southerly along the center line of Centre Street to the point where it meets the northern line of Chambers Street; thence westerly along the northern line of Chambers Street to the point where it meets the eastern line of Broadway; thence northerly along the eastern line of Broadway to the point and place of beginning.

HISTORICAL NOTE

Section repealed and added L.L. 84/2005 § 3, eff. Sept. 27, 2005. [See

Note 2]

Section added L.L. 25/2002 § 4, eff. Aug. 27, 2002. [See Note 1]

NOTE

1. Provisions of L.L. 25/2002:

Section 1. Declaration of legislation findings and intent. Section 961 of the general municipal law provides that a city may adopt a local law authorizing the submission of an application to the New York state commissioner of economic development for designation of an area within the city as an empire zone. Such designation could greatly benefit the city of New York in that new businesses would be encouraged to locate in the zone, existing businesses would be encouraged to expand in the zone, and new and expanded businesses would generate new jobs for city residents.

§ 2. The city of New York is authorized to submit an application to the New York state commissioner of economic development for designation of an area within the city of New York as an empire zone.

§ 3. The boundaries of such area are set forth in section four of this local law.

2. Provisions of L.L. 84/2005:

Section 1. Declaration of legislation findings and intent. Section 961 of the general municipal law provides that a city may adopt a local law authorizing the submission of an application to the New York state commissioner of economic development for designation of an area within the city as an empire zone. Subdivision (f) of section 958 of the general municipal law authorizes the creation of an empire zone designated as the Chinatown Empire Zone, although the boundaries authorized for such zone also include geographic areas generally referred to as "the Lower East

Side". The Council believes that the designation of such Chinatown/Lower East Side Empire Zone could greatly benefit the city of New York in that new businesses would be encouraged to locate in the zone, existing businesses would be encouraged to expand in the zone, and new and expanded businesses would generate new jobs for city residents.

§ 2. The city of New York is authorized to submit an application to the New York state commissioner of economic development for designation of an area within the city of New York as an empire zone, the boundaries of which area are set forth in section three of this local law.

FOOTNOTES

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[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-716

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-716 Authorization for the designation of a regionally significant project.

a. Pursuant to the provisions of article 18-B of the general municipal law, a business enterprise may be designated as a regionally significant project if the criteria set forth in paragraph i of subdivision d of section 957 of such article are met.

b. By a resolution of the South Jamaica empire zone administrative board, dated December 15, 2006, such administrative board, in accordance with the provisions of article 18-B of the general municipal law, supported the designation of Bimmy's LLC, having federal employer identification number 13-4126542 and located at 47-00 thirty-third street in the borough of Queens, as a regionally significant project.

c. Pursuant to the provisions of article 18-B of the general municipal law, such regionally significant project shall be as set forth as follows:

Bimmy's LLC, having federal employer identification number 13-4126542 and located at 47-00 thirty-third street, also known as Block: 252 Lot: 18, in the borough of Queens.

HISTORICAL NOTE

Section added L.L. 60/2007 § 2, eff. Dec. 5, 2007. [See Note 1]

NOTE

1. Provisions of L.L. 60/2007:

Section 1. Statement of legislative findings and intent. Under Section 957(d)(i) of the General Municipal Law, certain business enterprises located outside the boundaries of an Empire Zone may still be eligible for Empire Zone benefits as a "regionally significant project" because the economic activity of such enterprise is of a nature that is encouraged by the State, and the Administrative Board of such Empire Zone authorizes the designation of such business as a regionally significant project. The New York State Department of Economic Development and the South Jamaica Zone Administrative Board have determined that the proposed expansion of the Bimmy LLC's manufacturing facility in Long Island City is projected to create 100 new jobs and is eligible for Empire Zones benefits as a regionally significant project under Section 957(d)(i) of the General Municipal Law.

. . . . . .

§ 3. This local law shall take effect immediately except that the commissioner of small business services shall take such actions as are necessary for the administration and implementation of this local law including, but not limited to, the promulgation of rules prior to such effective date.

FOOTNOTES

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[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 22-717

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-717 Authorization for the designation of a regionally significant project.

a. Pursuant to the provisions of article 18-B of the general municipal law, a business enterprise may be designated as a regionally significant project if the criteria set forth in paragraph i of subdivision d of section 957 of such article are met.

b. By a resolution of the Hunts Point empire zone administrative board, dated November 13, 2007, such administrative board, in accordance with the provisions of article 18-B of the general municipal law, supported the designation of Bronx Westchester Tempering Corp., having federal employer identification number 26-0803492 and located at 4875 Baldwin Street, Bronx, New York (Block 5130, Lot 103), 4614 Bradley Street, Bronx, New York (Block 5130, Lot 100), and 4612 Bradley Street, Bronx, New York (Block 5130, Lot 101), as a regionally significant project.

c. Pursuant to the provisions of article 18-B of the general municipal law, such regionally significant project shall be as set forth as follows:

Bronx Westchester Tempering Corp., having federal employer identification number 26-0803492 and located at 4875 Baldwin Street, Bronx, New York (Block 5130, Lot 103), 4614 Bradley Street, Bronx, New York (Block 5130, Lot 100), 4612 Bradley Street, Bronx, New York (Block 5130, Lot 101).

HISTORICAL NOTE

Section added L.L. 36/2008 § 2, eff. Aug. 12, 2008. [See Note 1]

NOTE

1. Provisions of L.L. 36/2008:

Section 1. Statement of legislative findings and intent. Under Section 957(d)(i) of the General Municipal Law, certain business enterprises located outside the boundaries of an Empire Zone may still be eligible for Empire Zone benefits as a "regionally significant project" because the economic activity of such enterprise is of a nature that is encouraged by the State, and the Administrative Board of such Empire Zone authorizes the designation of such business as a regionally significant project. The New York State Department of Economic Development and the Hunts Point Empire Zone Administrative Board have determined that the operation in the Bronx of Bronx Westchester Tempering Corporation's manufacturing facility is projected to create 60 new jobs and has been provisionally approved for Empire Zones benefits as a regionally significant project under Section 957(d)(i) of the General Municipal Law.

FOOTNOTES

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[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

NYC Administrative Code 22-718

Administrative Code of the City of New York

Title 22 Economic Affairs

CHAPTER 7 EMPIRE ZONES*5

§ 22-718 Authorization for the designation of a regionally significant project.

a. Pursuant to the provisions of article 18-B of the general municipal law, a business enterprise may be designated as a regionally significant project if the criteria set forth in paragraph i of subdivision d of section 957 of such article are met.

b. By a resolution of the North Brooklyn/Brooklyn Navy Yard empire zone administrative board, dated December 18, 2007, such administrative board, in accordance with the provisions of article 18-B of the general municipal law, supported the designation of Aesthetonics, Inc., having federal employer identification number 113301966 and located at 21-29 Belvidere Street, in the borough of Brooklyn, as a regionally significant project.

c. Pursuant to the provisions of article 18-B of the general municipal law, such regionally significant project shall be as set forth as follows:

Aesthetonics, Inc., having federal employer identification number 113301966 and located at 21-29 Belvidere Street, also known as Block: 3135 Lot: 36, in the borough of Brooklyn.

HISTORICAL NOTE

Section added L.L. 63/2008 § 2, eff. Dec. 29, 2008.[See Note 1]

NOTE

1. Provisions of L.L. 63/2008:

Section 1. Statement of legislative findings and intent. Under Section 957(d)(i) of the General Municipal Law, certain business enterprises located outside the boundaries of an Empire Zone may still be eligible for Empire Zone benefits as a "regionally significant project" because the economic activity of such enterprise is of a nature that is encouraged by the State, and the Administrative Board of such Empire Zone authorizes the designation of such business as a regionally significant project. The New York State Department of Economic Development and the North Brooklyn/Brooklyn Navy Yard Empire Zone Administrative Board have determined that Aesthetonics, Inc., a manufacturer and distributor of high-end traditional lighting fixtures, is projected to create 67 new jobs and has been provisionally approved for Empire Zones benefits as a regionally significant project under Section 957(d)(i) of the General Municipal Law.

FOOTNOTES

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[Footnote 5]: * Chapter 7 added L.L. 8/1987 § 1. The term "economic development zone" is changed to "empire zone" by the Legislative Bill Drafting Commission pursuant to Memorandum of Instruction issued pursuant to § 15 of Part GG of Chapter 63 of the Laws of 2000.

NYC Administrative Code 23-101

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-101 Bond.

The director and deputy director of the City Record shall each execute a bond to the city in the penal sum of five thousand dollars, conditioned for the faithful performance of the duties of their respective offices. Such bond shall contain one or more sureties and shall be approved by the comptroller.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 871-1.0 added chap 929/1937 § 1

Amended chap 100/1963 § 605

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-102

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-102 Sales.

Copies of the City Record shall be sold by the director at a price to be fixed by him or her.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 872a-1.0 added chap 929/1937 § 1

Amended chap 100/1963 § 606

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-103

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-103 Distribution.

Copies of the City Record shall be distributed to the several agencies and to such other persons and in such manner as the director of the City Record shall direct.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 872a-2.0 added chap 929/1937 § 1

Amended chap 100/1963 § 607

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-104

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-104 Publication; distribution; expenses of.

If the City Record be published under contract then all expenses connected with its publication and distribution, except the salary of the director and his or her assistants, shall be included in the contract for printing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 872a-3.0 added chap 929/1937 § 1

Amended chap 100/1963 § 608

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-105

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-105 The City Record to print certain matters.

a. There shall be published in the City Record, or as a supplement thereto, within the month of April in each year, or maintain as a public record in the municipal reference and research center, a list of all officials, employees and laborers of the city who have been or have become officials, employees or laborers during the preceding year. Such list shall contain the name, nature of position or service, year of cessation of service or employment (if occurring during the year), salary or wages of each such official, employee or laborer.

b. The director shall have power to make requisition in writing upon the heads of agencies to furnish the information necessary to make up the list according to the rules prescribed by the director. Such information must be supplied by the agency within ten days after such requisition.

c. It shall be the duty of the director, on or before the first day of May in each year, to certify to the comptroller that such information has been furnished to him or her by the heads of such agencies, and the comptroller shall withhold payment of the salaries of any such head of agency who has failed to furnish such information.

d. All changes of such officials or employees, or the amount of their salaries, with a distinct statement of the increase or decrease, shall be published in the City Record within one week after changed or made. The director shall also cause to be printed in each issue of the City Record a separate statement of the hours during which all public offices in the city are open for business, and at which each court regularly opens and adjourns, as well as of the places where such offices are kept and such courts are held.

e. The detailed canvass of votes, at every election, shall be published in the City Record or as a supplement

thereto.

f. The mayor may order the insertion of any official matter or report in the City Record.

g. It shall be the duty of the heads of agencies to furnish to the director of the City Record and the director of the municipal reference and research center all information required to be inserted or maintained, respectively, therein.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 872b-1.0 added chap 929/1937 § 1

Subs b, c, d, g amended chap 100/1963 § 609

Sub a amended LL 17/1969 § 1

Subs a, g amended LL 80/1984 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Petitioners were denied an order which would direct defendants to publish a copy on supplement of the "Civil List" in accordance with § 872b-1.0 of the Administrative Code where such order would be adverse to public interest and no clear private right was shown.-Matter of Ward (Kelly), 292 N.Y. 569, 54 N.E. 2d 689 [1944].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-106

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 1 THE CITY RECORD

§ 23-106 Real estate; advertising sale of.

In the case of the sale of any real estate belonging to the city such advertisements may be also inserted in such other newspapers published in the city as the director, with the approval of the mayor and the comptroller may determine in the case of each such sale.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 872d-1.0 added chap 929/1937 § 1

Amended chap 100/1963 § 610

Amended chap 710/1943 § 575 (Part 3)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-201

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 2 PUBLIC RECORDS

§ 23-201 Municipal reference library, to have official reports, et cetera.

The head of each agency shall transmit to the municipal reference library, four copies of each annual or quarterly report or other publication of such agency immediately after the same shall have been issued.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1112-1.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 618

(formerly § 892-1.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-203

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 2 PUBLIC RECORDS

§ 23-203 Maps, books and papers to be public records.

HISTORICAL NOTE

Section repealed L.L. 69/1985 § 12.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-401

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-401 Definitions.

Whenever used in this chapter:

a. "Commissioner" shall mean the commissioner of the department of information technology and telecommunications, or of any successor agency.

b. "Department" shall mean the department of information technology and telecommunications, or any successor agency.

c. "Owner" shall mean a natural person or business entity which owns, leases, or is otherwise responsible for the installation, operation and maintenance of a public pay telephone.

d. "Permit" shall mean an authorization by the department to install, operate and maintain one or more public pay telephones at a location on, over or under a street or other inalienable property of the city.

e. "Public nuisance" shall mean the use of a public pay telephone on a regular basis which the commissioner has reasonable cause to believe is in furtherance of unlawful activity.

f. "Public pay telephone" shall mean a telephone and associated equipment, from which calls can be paid for at the time they are made by a coin, credit card, prepaid debit card or in any other manner, which is available for use by the public and provides access to the switched telephone network for the purpose of voice or data communications. The term "public pay telephone" shall include any pedestal or telephone bank supporting one or more such telephones,

associated enclosures, signage and other associated equipment.

g. "Street" shall have the meaning ascribed thereto in subdivision thirteen of section 1-112 of this code.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-402

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-402 Permit required.

No public pay telephone shall be installed, operated or maintained on, over or under any street or other inalienable property of the city without a permit therefor, and unless such installation, operation and maintenance is in accordance with the provisions of this chapter, the rules of the commissioner promulgated pursuant thereto, and the terms and conditions of such permit.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-403

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-403 Powers of commissioner.

a. The commissioner may issue and renew permits under this chapter based upon a determination, at his or her discretion, that issuance or renewal of a permit would be in the best interests of the city, provided that:

1. no permit shall be issued or renewed unless the applicant holds a franchise granted by the city to install, operate and maintain public pay telephones on, over and under the streets and other inalienable property of the city;

2. (i) in the event that the installation of a public pay telephone requires the opening, drilling or other physical alteration of a building facade or other private property, no permit shall be issued or renewed without the written consent of the building owner.

(ii) in the event that the installation of a public pay telephone requires affixing the phone to a building facade or other private property, no permit shall be issued or renewed without the written consent of the building owner.

(iii) in the event the installation of a public pay telephone is to be accomplished in a manner other than as set forth in subsection (i) and (ii) of this section, but requires access through an existing conduit or other opening on a building facade or other private property, or such installation is to be made within six feet of a building line, no permit shall be issued or renewed without the written consent of the building owner or the commercial lessee who shall certify (aa) that the building owner has authorized the lessee to grant such consents; and (bb) that the lessee has provided the building owner or its authorized agent with written notification by certified mail, of the granting of such consent, the name and address of the owner of the public pay telephone and the location of such public pay telephone in relation to the building. Proof of mailing of such notification to the building owner or its authorized agent shall be included in the

permit application. It shall be a violation of this chapter where a permittee, without providing justification therefor, fails within a time period specified by the Commissioner to remove a public pay telephone following receipt of a notice from the building owner or its authorized agent by certified mail that he or she objects to the installation, where such notice and copy to the Commissioner are sent within thirty days of receipt of the commercial lessee's consent. Nothing herein shall be construed to limit a building owner or its authorized agent from pursuing such remedies as he or she may have under law with respect to the unauthorized installation of a public pay telephone; and

3. no permit shall be issued or renewed for the installation, operation and maintenance of a public pay telephone at any location where it will unreasonably interfere with the use of a street by the public, or where it will unreasonably interfere with the use of the abutting property.

b. The commissioner shall promulgate rules to implement the provisions of this chapter. Such rules shall include, without limitation: (i) a procedure and timetable for review by the department, and other appropriate agencies, including the department of transportation, of applications for the issuance and renewal of permits to install, operate and maintain public pay telephones at specified locations; (ii) standards governing the location of public pay telephones designed so as to ensure that such telephones will not unreasonably interfere with the use of the street by the public and with use of the abutting property; and (iii) standards and procedures governing the installation, removal, operation, cleaning and maintenance of public pay telephones, including procedures for the expedited removal of any public pay telephone determined to constitute a public nuisance.

c. Permits may contain such other terms and conditions not specifically provided for in this chapter as the commissioner deems necessary to protect the public safety and to safeguard the interests of the city.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

CASE NOTES

¶ 1. The statute gave the agency the power to enact 67 RCNY § 6-06, which allows the agency to restrict advertising on public telephones. Coastal Communication Service, Inc. v. New York City Dept. of Information Technology and Communications, 12 Misc.3d 1179(A), 824 N.Y.S.2d 761, 2006 WL 1879115 (Sup.Ct. New York Co.).

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-404

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-404 Term; Termination.

a. A permit for a public pay telephone shall continue in effect for the term of the franchise held by the owner of such public pay telephone, unless the commissioner, after giving the permittee notice and an opportunity to be heard, determines: (i) that as a result of changed conditions, the public pay telephone unreasonably interferes or will unreasonably interfere with the use of a street by the public, or constitutes a public nuisance; or (ii) that removal of the public pay telephone is required in connection with a street widening or other capital project or for other purposes as may be specified by rule of the commissioner. Upon making such determination, the commissioner shall order the removal of the public pay telephone within a reasonable time period. In the event the permittee fails to remove the public pay telephone within the time period specified in such order, the commissioner may remove or cause the removal of the public pay telephone and have repair and restoration work performed at the expense of the permittee, who shall be liable in a civil action for the amount expended by the city.

b. Notwithstanding the provisions of subdivision a of this section, in the event that a public pay telephone is removed in connection with a street widening or other capital project or other improvement specified by rule of the commissioner, the permittee may apply to the commissioner for permission to reinstall the public pay telephone at another location or, following the completion of such street widening, capital project, or other improvement, at or near its original location. Where such permission is granted, the permittee shall not be required to obtain a new permit for the public pay telephone, and the permit previously issued for such public pay telephone shall continue in effect. If such public pay telephone is reinstalled at another location, the permittee may apply to the commissioner for a new permit to install another public pay telephone following the completion of such street widening, capital project or other improvement at or near the original location of the public pay telephone previously removed in connection therewith,

provided that the permittee has paid the required fee for such permit.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-405

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-405 Advertising.

A permit issued under this chapter shall not constitute an authorization to place advertising upon a public pay telephone.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-406

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-406 Fees.

The commissioner shall by rule establish fees for the issuance and renewal of permits pursuant to this chapter in amounts sufficient to compensate the city for the administrative expense of issuing or renewing a permit and the expense of inspections and other activities related thereto.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-407

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-407 Transfers.

No permit issued under this chapter shall be transferred except as may be authorized by rule of the commissioner.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 23-408

Administrative Code of the City of New York

Title 23 Communication

CHAPTER 4 [PUBLIC PAY TELEPHONES]*20

§ 23-408 Violations; Penalties and Other Enforcement.

a. Any owner who installs, operates or maintains a public pay telephone on, over or under any street or other inalienable property of the city without a permit therefor shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars and imprisonment of not more than thirty days, or both such fine and imprisonment. Such owner shall, in addition, be liable for civil penalties pursuant to subdivisions c and d of this section.

b. An owner who repeatedly fails to provide phone services from a public pay telephone for any sustained period of time or who fails to provide coinless twenty-four hour 911 service from such public pay telephone shall be in violation of this chapter and shall be liable for a civil penalty of not more than two thousand five hundred dollars for each violation which may be recovered in a civil action or in a proceeding before the environmental control board. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.

c. An owner who violates any provision of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto shall be liable for a civil penalty of not more than one thousand dollars for each violation which may be recovered in a civil action or in a proceeding before the environmental control board. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense.

d. An owner who is liable for a civil penalty for a violation pursuant to subdivision c of this section shall also be liable in a civil action for an additional civil penalty in the amount of the expense, if any, incurred by the city in the removal of the public pay telephone and the performance of related repair and restoration work.

e. In addition to authorized officers and employees of the department, officers and employees of the department of transportation who are designated by the commissioner shall have the power to issue summonses and appearance tickets returnable in the criminal court and notices of violation returnable before the environmental control board for violations of the provisions of this chapter.

f. An owner of a public pay telephone shall be liable for a violation by his or her employee, agent or independent contractor of the provisions of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto, made in the course of performing his or her duties.

g. An owner who submits an application for a public pay telephone permit containing a certification made by a commercial lessee pursuant to subparagraph (iii) of paragraph 2 of subdivision a of section 23-403 of this chapter, knowing that such certification contains a false statement or false information, shall be guilty of a misdemeanor.

h. The commissioner may request the corporation counsel to institute any action or proceeding that may be appropriate or necessary to restrain, correct or abate a violation of the provisions of this chapter.

i. 1. If the commissioner has reasonable cause to believe that an owner, or any employee, agent or independent contractor of such owner, has violated the provisions of this chapter, or any term or condition of a permit issued pursuant thereto, or any rule promulgated by the commissioner pursuant thereto, the commissioner may (i) notify the owner of the condition identified by the commissioner as a violation and specify the action that must be taken to correct the condition in such manner and within such period of time as shall be set forth in such notice, and (ii) shall afford the owner an opportunity to contest the commissioner's notice in a manner to be set forth in rules of the commissioner. Upon final determination by the commissioner and failure of such owner to correct the condition in the manner and within the period of time specified by the commissioner, the commissioner shall be authorized, at his or her discretion:

aa. to remove or cause the removal of any public pay telephone which is installed, operated or maintained on, over or under any street or other unalienable property of the city without a permit therefor. Notwithstanding the foregoing, notice shall be provided pursuant to this subdivision prior to removal only where the name and address of the owner is shown on the public pay telephone or can be readily identified by the commissioner by virtue of a trademark prominently displayed on the public pay telephone.

bb. to revoke a permit and, upon revocation, to further order the removal of the public pay telephone. In the event the permittee fails to remove the public pay telephone and to perform related repair and restoration work within the time period specified by such order, the commissioner may remove or cause the removal of the public pay telephone and have repair and restoration work performed at the expense of the permittee, who shall be liable for the amount expended by the city;

cc. to render a public pay telephone inoperable except for the purpose of emergency telephone service through the 911 system or an operator. Such action may continue until the violation has been corrected to the satisfaction of the commissioner and payment has been made of all civil penalties imposed for the violation and any fees for any administrative expense or expense of additional inspections incurred by the city as a result of such violation. The commissioner shall affix to any public pay phone rendered inoperable pursuant to this paragraph a notice advising the public that the phone may be used only for emergency telephone service through the 911 system or an operator and setting forth the provisions of subdivision h of this section. Any device utilized by the commissioner for the purpose of rendering a public pay telephone inoperable shall be designed so as to permit the unimpaired use of the public pay telephone upon the removal of the device;

dd. to suspend review of all applications for the issuance or renewal of permits filed by such owner pursuant to this chapter. Such suspension may continue until the violation has been corrected to the satisfaction of the commissioner and payment has been made of all fines or civil penalties imposed for the violation, any costs incurred by the city for removal and related repair or restoration work, and any fees for any administrative expense or expense of additional

inspections incurred by the city as a result of such violation.

2. Notwithstanding the provisions of paragraph one of this subdivision, if the commissioner determines that an imminent threat to life or property exists, the commissioner may remove or cause the removal of a public pay telephone, and have repair and restoration work performed at the expense of the owner, without affording the owner an opportunity to be heard prior to such removal. An owner who is a permittee or whose name and address is shown on the public pay telephone shall be provided notice and an opportunity to be heard five days after such removal in accordance with rules of the commissioner.

3. The procedures set forth in this subdivision shall be employed by the commissioner in addition to or in lieu of the other remedies set forth in this section and shall not be construed to limit the power of the commissioner to commence a civil action or proceeding before the environmental control board, or to require that the commissioner resort to any procedure set forth in this subdivision as a prerequisite to the commencement of any such action or proceeding.

j. It shall be a misdemeanor for any person: (i) to remove any device installed by the commissioner pursuant to subparagraph aa of paragraph one of subdivision g of this section or to otherwise make operable a public pay telephone upon which such a device has been installed; or (ii) to remove or deface any notice affixed to a public pay telephone pursuant to such paragraph of such subdivision. Such misdemeanor shall be punishable upon conviction by a fine of not more than ten thousand dollars or imprisonment for not more than thirty days or both such fine and imprisonment.

k. Any public pay telephone removed pursuant to this section which is not claimed by the owner within thirty days of removal shall be deemed to be abandoned. All abandoned public pay telephones may be sold at public auction after having been advertised in the City Record and the proceeds paid into the general fund or such abandoned telephones may be used or converted for use by the department or by another city agency. A public pay telephone shall be released to the owner upon payment of the costs of removal, repair and restoration work, and of storage, any fees for any administrative expense or expense of additional inspections incurred by the department as a result of the violation, or, if an action or proceeding for the violation is pending in a court or before the environmental control board, upon the posting of a bond or other form of security acceptable to the commissioner in an amount which will secure the payment of such costs and any fines or civil penalties which may be imposed for the violation.

HISTORICAL NOTE

Section added L.L. 68/1995 § 2, eff. Mar. 2, 1996.

NOTE

Provisions of L.L. 68/1995:

§ 5. a. Notwithstanding any provisions to the contrary of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law, all licenses previously issued to the telephone company pursuant to former sections 19-131 or 19-128 of the administrative code of the city of New York shall remain in full force and effect for a period of three years following the effective date of this local law or until ninety days following such date as the telephone company may be granted a franchise to install, operate and maintain public pay telephones, whichever is the earlier; provided, however, that a public pay telephone licensed pursuant to former sections 19-131 or 19-128 of the administrative code of the city of New York may be subject to removal pursuant to the provisions of subdivision a of section 23-404 of the administrative code of the city of New York as added by section 2 of this local law. Notwithstanding any provisions to the contrary of paragraph 1 of subdivision a of section 23-403 of the administrative code of the city of New York, as added by section 2 of this local law, and subject to compliance with the provisions of section 6 of this local law, during the period in which such existing licenses remain in full force and effect, the commissioner of the department of information technology and telecommunications may issue permits pursuant to chapter 4 of title 23 of the administrative code of the city of New York, as added by section 2 of this local law, for the

installation, operation and maintenance of new public pay telephones by the telephone company. Such permits shall expire three years following the effective date of this local law, unless the telephone company is granted a franchise to install, operate and maintain public pay telephones, in which case they shall continue in effect for the term of the franchise.

b. In the event the telephone company is granted a franchise to install, operate and maintain public pay telephones, it may request the issuance of permits pursuant to this local law with respect to any or all of its existing public pay telephones for which a license previously issued pursuant to former sections 19-131 or 19-128 of the administrative code is in effect in accordance with subdivision a of this section no later than thirty days following the date such franchise is granted. Such application shall consist of a letter identifying the location and license number of each existing public pay telephone for which the telephone company seeks a permit. Any existing public pay telephone for which the telephone company does not seek issuance of a permit shall be removed by the telephone company within sixty days following the date the franchise is granted and, if not so removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Notwithstanding any other provisions to the contrary of section 23-403 of the administrative code of the city of new York, as added by section 2 of this local law, the commissioner shall, no later than ninety days following the date the franchise is granted, issue permits pursuant to this local law for the existing public pay telephones for which the telephone company has requested a permit pursuant to this subdivision, unless: (aa) within sixty days following the date the franchise is granted the commissioner has objected to the continued maintenance and operation of an existing public pay telephone upon the basis that such continued maintenance and operation would be inconsistent with this local law, or would not be in compliance with the rules of the commissioner, or of any federal or state regulatory authority having jurisdiction over the provision of public pay telephone service; and (bb) such condition has not been cured within the time frame specified by the Commissioner. The telephone company shall remove all existing public pay telephones for which a permit has not been granted pursuant to this paragraph on or before the one hundred twentieth day following the date the franchise is granted and, if not so removed, such telephones shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of the local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. No fees shall be required for permits requested under this subdivision.

c. For a period of three years following the effective date of this local law or until such date as the telephone company may be granted a franchise to install, operate and maintain public pay telephones and the terms of the franchise agreement governing compensation to the city thereby take effect, whichever is the earlier, the telephone company shall pay to the city such commissions on revenues derived directly or indirectly from any public pay telephones maintained under license or permit as have been established by agreement between the telephone company and the city, provided, that such city standard public pay telephone commissions shall be paid at not less than the rate in effect as of June 1, 1995. In the event the telephone company fails to pay any such commissions, the commissioner of the department of information technology and telecommunications may suspend the issuance of permits to the telephone company pursuant to subdivision a of this section until such commissions are paid.

§ 6. a. Notwithstanding any provisions to the contrary of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law, and subject to compliance with the provisions of subdivision b of this section, an owner of a public pay telephone for which a license has not been issued pursuant to former sections 19-128 and 19-131 of the administrative code of the city of new York shall not be deemed in violation of the provisions of such section for failure to have obtained a permit for such public pay telephone, where such telephone was installed prior to the effective date of this local law, unless and until one of the following has occurred: (i) the owner has declined to respond to the request for proposals or other solicitation of proposals issued by the commissioner of the department of information technology and telecommunications for the purpose of entering into franchise agreements for the

installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals and thirty days have elapsed following such failure to respond; (ii) the commissioner has determined not to propose the award of a franchise to such owner to the franchise and concession review committee and thirty days have elapsed following notification to such owner of the commissioner's determination; or (iii) the franchise and concession review committee has determined not to approve a proposed franchise agreement for such owner and thirty days have elapsed following notification to such owner of the committee's determination; provided, further, that such public pay telephone shall not be deemed in violation of the provisions of section 23-402 of the administrative code of the city of New York, as added by section 2 of this local law if, within any such thirty day period, the owner enters into an agreement for the sale of such public pay telephone to another person who, at the time such agreement is concluded, is either a potential franchisee or has been awarded a franchise, and ownership of such public pay telephone is transferred within thirty days after such agreement is concluded.

b. The provisions of subdivision a of this section shall apply only where: (i) such owner has submitted to the department a registry identifying the location of each telephone installed and activated prior to the effective date of this local law and the date of activation for each such telephone; (ii) the owner has certified, upon a form specified by the commissioner, that all telephones identified in the registry have been installed and are maintained and operated in accordance with all applicable safety standards and requirements; (iii) the owner has paid to the city an annual interim occupancy fee for each telephone identified in the registry in the amount of $75.00; and (iv) the commissioner has not objected to the continued maintenance and operation of such telephone as identified and certified in such registry upon the basis that such continued maintenance and operation: (aa) poses a danger to life or property; (bb) unreasonably interferes with the use of a street by the public; (cc) unreasonably interferes with the use of the abutting property; (dd) is a public nuisance within the meaning of subdivision e of section 23-401 of the administrative code of the city of New York, as added by section 2 of this local law; or (ee) interferes with a street widening or other capital project, or, if the commissioner has so objected, the condition which gave rise to such objection has been timely cured. A public pay telephone for which an objection has been made and not timely cured shall be removed immediately by the owner, and if not removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. The commissioner shall promulgate rules governing the format and contents of such registries, the documentation of the information set forth therein, the certification to be provided in connection therewith, a timetable for submission of registries, and a procedure for payment of interim occupancy fees. Such rules shall allow for the payment of the interim occupancy fee in quarterly installments and shall include a mechanism for the prorated application of an interim fee towards payment of a permit fee in the event the owner is awarded a franchise prior to expiration of the annual interim period.

c. Any owner who does not submit a registry and pay to the city interim occupancy fees in the manner provided in the rules promulgated pursuant to subdivision b of this section and in accordance with the timetable established thereunder shall immediately remove all public pay telephones installed prior to the effective date of this local law other than telephones licensed pursuant to former sections 19-128 and 19-131 of the administrative code of the city of New York. Upon failure to remove such telephones such telephones shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. The failure to submit a registry in accordance with the timetable established pursuant to the rules promulgated pursuant to subdivision b of this section shall also be deemed a violation of section 23-402 of the administrative code of the city, as added by section 2 of this local law, for which an owner shall be guilty of a misdemeanor pursuant to subdivision a of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law.

d. Notwithstanding any provisions to the contrary of paragraph 1 of subdivision a of section 23-403 of the administrative code of the city of New York, as added by section 2 of this local law, the commissioner of the department of information technology and telecommunications may issue permits pursuant to chapter 4 of title 23 of the

administrative code of the city of New York, as added by section 2 of this local law, for the installation, operation and maintenance of new public pay telephones to an owner of a public pay telephone other than the telephone company who has not been awarded a franchise to install and maintain public pay telephones, provided, that: (i) such owner has submitted a registry and paid to the city interim occupancy fees in the manner provided in the rules promulgated pursuant to subdivision b of this section; and (ii) none of the following has occurred: (aa) the owner has declined to respond to the request for proposals or other solicitation of proposals issued by the department of information technology and telecommunications for the purpose of entering into franchise agreements for the installation, operation and maintenance of public pay telephones within the time period specified in such request for proposals or other solicitation of proposals; (bb) the commissioner has determined not to propose the award of a franchise to such owner to the franchise and concession review committee; or (cc) the franchise and concession review committee has determined not to approve the proposed franchise agreement for such owner. Permits issued pursuant to this subdivision shall expire upon the occurrence of any of the foregoing. In the event the owner is granted a franchise to install, operate and maintain public pay telephones, such permits shall continue in effect for the term of the franchise.

e. In the event an owner of a public pay telephone other than the telephone company is granted a franchise to install and maintain public pay telephones, such owner may apply for the issuance of permits pursuant to chapter 4 of title 23 of the administrative code of the city of New York, as added by section 2 of this local law, with respect to any or all of the public pay telephones identified in a registry submitted pursuant to subdivision c of this section for which: (i) the commissioner made no objection or an objection was timely cured; and (ii) annual interim occupancy fees have been paid; provided however, that the provisions of subparagraph iii of paragraph 2 of subdivision a of Section 23-403 of the administrative code of the city of New York, as added by Section 2 of this local law, shall not apply with respect to an application for issuance of a permit for a public pay telephone where such public pay telephone was installed in the manner described in such subparagraph and activated on, or before August 1, 1994, and has been in continuous use since such activation date. Such applications shall be made no later than thirty days following the date the franchise is granted. Any such public pay telephone for which such owner does not so apply for issuance of a permit shall be removed by the owner within sixty days following the date the franchise is granted and, if not so removed, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. In reviewing an application for the issuance of a permit for an existing public pay telephone made pursuant to this section, the commissioner shall notify the owner of any condition which renders the continued maintenance and operation of such telephone inconsistent with the provisions of this local law, or out of compliance with the rules of the commissioner, or of any federal or state regulatory authority having jurisdiction over the provision of public pay telephones and which, if cured by the owner within such time period as may be specified by the Commissioner, shall render such telephone eligible for receipt of a permit pursuant to this local law. An owner shall not be required to remove an existing public pay telephone for which the owner has submitted an application for a permit pursuant to this paragraph unless and until the earlier of the following has occurred: (aa) the owner fails to timely cure a condition specified in a notification provided by the commissioner pursuant to this paragraph; or (bb) the application for such permit is denied. Any such public pay telephone, if not removed within thirty days of such occurrence, shall be subject to removal pursuant to section 23-408 of the administrative code of the city of New York as added by section 2 of this local law. Failure to remove such a public pay telephone shall also be deemed a violation for purposes of subdivisions b and c of section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law. Nothing in this section shall be construed to limit the commissioner's authority to issue or deny permits at his or her discretion, or to otherwise pursue the remedies for violations set forth in section 23-408 of the administrative code of the city of New York, as added by section 2 of this local law.

§ 7. The commissioner may by rule extend any time period provided for in sections 5 and 6 of this local law, based upon a determination that such extension would be in the best interest of the city.

§ 8. All records of the department of transportation relating to the licensing of public pay telephones shall be

transferred to the department of information technology and telecommunications according to a timetable to be established by such agencies.

§ 9. The department of information technology and telecommunications shall, upon the effective date of this local law and so far as not inconsistent with the provisions of this local law, be authorized to continue any business, proceeding or other matter commenced by the department of transportation pursuant to former section 19-128 of the administrative code of the city of New York.

CASE NOTES

¶ 1. There is a statutory violation where a telephone is not equipped for coinless 911 service. The mere fact that a telephone is broken and lacks a dial tone does not per se mean that the statute has been violated. It is only upon a **repeated** failure to repair the phone that a statute has been violated. New York Telephone Co. v. NYC Environmental Control Board, N.Y.L.J., Feb. 25, 1999, page 33, col. 1 (Sup.Ct. Queens Co.).

FOOTNOTES

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[Footnote 20]: * Chapter heading supplied by editor.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-101

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY, AND DEFINITIONS

§ 24-101 Short title.

chapter*10 one of this title of the code of the city of New York shall be known and may be cited as the "New York city air pollution control code".

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-1.01 added LL 49/1971 § 1

CASE NOTES

¶ 1. The provisions of the Air Pollution Control Code is to give liberal construction so as to effectuate its stated purpose, i.e. controlling and reducing air pollution (see Ad Code § 24-101 et seq.) therefore, it was proper to charge petitioner owner, but not operator, of buses observed on two occasions emitting visible air contaminants while stationary for more than 10 consecutive seconds, idling for more than three minutes on two occasions and on five occasions emitting visible air contaminants after having traveled in excess of 90 yards from a stationary postion. Liberty Lines Express v. NYC Envir. Control Board, 160 AD2d 295.

FOOTNOTES

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[Footnote 10]: * So in original. ("chapter" should be "Chapter".)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-102

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY, AND DEFINITIONS

§ 24-102 Declaration of policy.

It is hereby declared to be the public policy of the city to preserve, protect and improve the air resources of the city so as to promote health, safety and welfare, prevent injury to human, plant and animal life and property, foster the comfort and convenience of its inhabitants and, to the greatest degree practicable, facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to air that is not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the emission into the open air of harmful or objectionable substance, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors or any products of combustion or incomplete combustion resulting from the use of fuel burning equipment or refuse burning equipment is a menace to the health, welfare and comfort of the people of the city and a cause of extensive damage to property. For the purpose of controlling and reducing air pollution, it is hereby declared to be the policy of the city to actively regulate and eliminate such emissions. The necessity for legislation by the enactment of the provisions of this chapter is hereby declared as a matter of legislative determination. This code shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of the board of health of the department of health and mental hygiene or the right of such department to engage in any of its necessary or proper activities.

HISTORICAL NOTE

Section amended L.L. 22/2002 § 48, eff. July 29, 2002 and deemed in

effect as of July 1, 2002.

Section amended L.L. 39/1989 § 2. (See Note 1)

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-1.02 added LL 49/1971 § 1

NOTE

1. Provision of L.L. 39/1989 § 1:

Section one. Declaration of legislative intent and findings. In the 1960's and 1970's, the council enacted legislation regulating the operation of existing privately-operated incinerators and prohibiting the installation of any additional privately-operated incinerators. The approximately 2500 incinerators that are now operating in apartment buildings, account for nearly all the privately-operated incinerators currently in use in the city. The council finds that these incinerators continue to pose a severe threat to the health, safety, welfare and comfort of New Yorkers. Reliable scientific evidence establishes that because nearly all these incinerators lack effective emissions and/or combustion controls, they emit unacceptable levels of various toxic gases and substances, including particulates, heavy metals, acid gases, dioxins and furans. These incinerators are operated by personnel who lack adequate training in the principles of combustion and who are incapable of effectively monitoring and controlling the operation of the incinerator. As a result, combustion efficiencies are often low, causing incomplete burning and the creation of polluting by-products. Moreover, because these incinerators' stacks rise only ten to fifteen feet above roof level, emissions are poorly dispersed. Finally, these incinerators are not equipped with state-of-the-art pollution control devices to control the wide-range of pollutants that may be emitted.

The council finds that with the institution of the mandatory citywide recycling program and the resource recovery program, the elimination of privately-operated incinerators will not overburden the city's solid waste disposal system. Moreover, the elimination of these facilities is not intended to result in a reduction of services requiring a rent reduction under the rent and rehabilitation law or the rent stabilization law. Accordingly, in order to protect the health and welfare of the public, the council finds it appropriate to ban all existing privately-operated incinerators.

CASE NOTES FROM FORMER SECTION

¶ 1. Rule of Commissioner of New York City Department of Rent and Housing Maintenance that rent-controlled buildings which violate the Air Pollution Control Code shall be subject to rent reductions was invalidated when disapproved by New York State Commissioner of Housing and Community Renewal for reasons which had a rational basis. Kerr v. Urstadt, 72 Misc. 2d 942 (1973).

CASE NOTES

¶ 1. Petitioner received a "certificate of operation" for use of newly installed boiler/burner equipment from the Department of Environmental Protection within the three-year eligibility period, but did not receive a "sign-off" from the Department of Buildings until after the three-year period had elapsed. Failure to obtain a DOB "sign-off" within the three-year period was not a mere "minor technicality" in determining entitlement to J 51 benefits, §11-243(d)(3), under the Building Code §27-787 et seq and the air pollution control provisions, §24-102 et seq only the DOB can certify that a boiler/burner meets minimum standards of safety and is properly burning fuel, generating energy and providing heat. 31171 Owners Corp. v. DHPD, 190 AD2d 441, 559 NY.S.2d 19 [1993].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-104

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY, AND DEFINITIONS

§ 24-104 Definitions.

When used in the New York city air pollution control code:

(1) Air contaminant means any particulate matter or any gas or any combination thereof in the open air, other than uncombined water or air.

(2) Air contaminant detector means a device or combination of devices which cause audible and/or visible signals in the presence of an air contaminant of a particular concentration, density or opacity.

(3) Air contaminant recorder means an apparatus which produces a record of the time, duration, concentration and density or opacity of an air contaminant.

(4) Alteration means any modification or change of the design, capacity, process or arrangement, or any increase in the connected load of equipment or apparatus which will affect the kind or amount of air contaminant emitted. Alteration does not include replacement or repair of wornout or defective equipment.

(5) Anthracite coal means the current definition of anthracite coal as classified by the American society for testing and materials.

(6) Apparatus means any device which prevents, controls, detects, or records the emission of any air

contaminant.

(7) Bituminous coal means the current definition of bituminous coal and subbituminous coal as classifed by the American society for testing and materials.

(8) Board means the environmental control board of the city of New York.

(9) Boiler means equipment which is used to heat water for the purpose of generating hot water and/or steam.

(10) Btu input means the quantity of heat generated by a fuel fed into a furnace under conditions of complete combustion, measured in British thermal units. Btu input includes sensible heat, calculated above sixty degrees F., available from materials introduced into the combustion zone.

(11) Capacity rating means the fuel burning equipment manufacturer's guaranteed maximum Btu input rating in millions of Btu per hour, or the maximum four-hour average actual rate, whichever is higher.

(12) Certificate means an operating, sulfur exemption, temporary operating, or temporary sulfur exemption certificate.

(13) Charter means the New York city charter, including all of its amendments.

(14) City means the city of New York.

(15) Combustion controller means an apparatus which automatically continually maintains the proper fuel to air ratio for the optimum combustion of fuel.

(16) Combustion shutoff means an apparatus which is designed to halt automatically a combustion process when proper combustion conditions are not being maintained.

(17) Commissioner means commissioner of environmental protection.

(18) Control apparatus means any device which prevents or controls the emission of any air contaminant.

(19) Department means department of environmental protection.

(20) Dust means solid particulate matter which has been released into the open air by natural forces or by mechanical processes.

(21) Emission means dispersion of an air contaminant into the open air of the city.

(22) Emission rate potential means the rate in pounds per hour at which air contaminant would be emitted to the open air in the absence of air pollution control facilities or other control measures. The emission rate potential for cyclic operations shall be determined by considering both the instantaneous emission potential and the total emission potential over the time period of the cycle.

(23) Emission source means a point at which an emission occurs.

(24) Environmental rating means a rating indicated by the letters A, B, C or D in table 1, section 24-153 of the code.

(25) Equipment means any device capable of causing the emission of an air contaminant into the open air, or any stack, conduit, flue, duct, vent or similar device connected or attached to, or serving such device.

(26) Equipment used in a process means equipment (except refuse burning equipment or fuel burning

equipment) used in any industrial, commercial, agricultural or other activity, or in any operation, manufacture or treatment in which chemical, biological or physical properties of materials are changed.

(27) Excess air means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.

(28) Exhaust and ventilation source means a system which removes and transports air contaminant to the exterior of a building or other structure.

(29) Fuel burning equipment means equipment, other than a motor vehicle, designed to burn fuel.

(30) Installation means the placement, assemblage or construction of equipment or apparatus at the premises where the equipment or apparatus will be used, and includes all preparatory work at such premises.

(31) Major deficiency means a defect in the design and/or installation that may cause the equipment to generate unnecessary air pollution.

(32) Minor deficiency means a defect in the design and/or installation that does not accomplish or provide the monitoring or maintenance capability required by the permit issued to install or alter the equipment.

(33) Motor vehicle means equipment which is propelled by an engine in or upon which a person or material may be transported on the ground.

(34) Odorous air contaminant means any air contaminant which is released in sufficient concentrations to be detected by the human olfactory sense.

(35) Open air means all the air available for human, animal, or plant respiration, but shall not include the air in equipment and private dwellings.

(36) Open fire means any fire wherein the products of combustion are emitted directly into open air and are not directed thereto through a stack, conduit, flue, duct, vent or similar device.

(37) Owner means and includes the owner of the freehold of the premises or lesser estate therein or mortgagee thereof, a lessee or an agent of any of the above persons, a lessee of the equipment or his or her agent, a tenant, operator, or any other person who has regular control of equipment or apparatus.

(38) Particulate matter means any liquid, other than water, or any solid which is or tends to be capable of becoming windblown or being suspended in air, or other gas or vapor which becomes a solid or liquid at standard conditions of thirty-two degrees F. and 14.7 psia. Particular matter measured on a dry basis shall be comprised of all materials collected at two hundred fifty degrees F. on and prior to the dry filter medium which achieves an efficiency greater than 99.9 per cent for particles 0.3 microns in diameter based on dioctyl phthalate smoke.

(39) Permissible emission rates means the maximum rate in lbs. hr. at which air contaminant may be emitted to the open air.

(40) Permit means an installation or alteration permit.

(41) Person means individual or partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

(42) Portable equipment means equipment designed to be transported from place to place for temporary operation, other than a motor vehicle, or lawn mower, snowblower or other similar domestic, non-commercial

equipment.

(43) Process weight means total weight of the materials including solid fuels introduced into any specific process but excluding liquid and gaseous fuels and combustion air.

(44) Process weight per hour means process weight divided by the number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(45) Professional certification means certification by a professional engineer or registered architect who is licensed to practice engineering or architecture under section seven thousand two hundred two or seven thousand three hundred two of the education law.

(46) Refuse burning equipment means equipment designed to burn waste material, garbage and refuse.

(47) Refuse compacting system means any machine or system of machines capable of reducing waste material and garbage by means other than burning. So that it reduces by a volume to be determined by the commissioner and is suitable for collection by the department.

(48) Refuse containerization system means any system for the disposal of waste material and garbage jointly approved as to specifications by the department of health and mental hygiene, the department of housing preservation and development and the department pursuant to section 27-2021 of the code, which utilizes containers compatible with mechanical loading systems on vehicles operated for the collection of refuse.

(49) Residual fuel oil means a fuel oil meeting the current definition of fuel oil grades No. 5 and 6 as classified by the American society for testing and materials.

(50) Scrubber means a control apparatus which uses water or other fluids to remove air contaminant from a gas stream.

(51) Solid fuels means anthracite and bituminous coal, or coke as currently defined by the American society for testing and materials.

(52) Standard smoke chart means the Ringelmann chart, as published by the United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

(53) This code means the air pollution control code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (18) amended L.L. 39/1989 § 3.

Subd. (48) amended L.L. 22/2002 § 49, eff. July 29, 2002 and deemed

in effect as of July 1, 2002.

DERIVATION

Formerly § 1403.2-1.03 added LL 49/1971 § 1

Subd (48) added as subd (rr) LL 32/1973 § 1

Amended LL 55/1980 § 1

Sub 28 amended LL 49/1985 § 1

CASE NOTES

¶ 1. Ad Cd §24-104 defines "air contaminant" and "odorous air contaminant", "emission", and "dispersion . . . into the open air . . .". Ad Cd §24-141 prohibits emission of air contaminants into the open air. The statute is not unconstitutionally vague but has core meaning and is clearly defined. New Amber Auto v. Environ. Control Bd., 163 Misc. 2d 113 [1994].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-105

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-105 General powers of the commissioner.

Subject to the provisions of this code, the commissioner may take such action as may be necessary to control the emission of air contaminant which causes or may cause, by itself or in combination with other air contaminant, detriment to the safety, health, welfare or comfort of the public or to a part thereof, injury to plant and animal life, or damage to property or business. The commissioner may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code. The commissioner may adopt such rules, regulations and procedures as may be n ecessary to effectuate the purposes of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.01 added LL 49/1971 § 1

Amended LL 75/1982 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-106

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-106 Investigations and studies by commissioner.

The commissioner may make or cause to be made any investigation or study which in his or her opinion is desirable for the purpose of enforcing this code or controlling or reducing the amount or kind of air contaminant. For such purposes, the commissioner may make tests, conduct hearings, compel the attendance of witnesses, and take their testimony under oath and may compel the production of books, papers and other things reasonably necessary to the matter under consideration.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.03 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-107

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-107 Testing by order of commissioner.

(a) If the commissioner has reasonable cause to believe that any equipment or fuel is in violation of this code, the commissioner may order the owner of the equipment or fuel to conduct such tests as are necessary in the opinion of the commissioner to determine whether the equipment, its operation, or the fuel is in violation of this code, or whether material used in any manufacturing process is contributing to any violation of this code and to submit the test results to the commissioner within ten days after the tests are completed.

(b) Such tests shall be conducted in a manner approved by the commissioner. The test shall be certified by a laboratory acceptable to the commissioner. The entire test results shall be reviewed and certified by a professional engineer.

(c) The owner shall notify the commissioner of the time and place of a test at least seven days before the commencement of such test. Reasonable facilities shall be made available for the commissioner to witness the test.

(d) If in the opinion of the commissioner tests by the department are necessary, the commissioner may order the owner to provide sampling holes at such points in the stack, conduit, flue, duct or vent, as the commissioner may reasonably request, to provide a power source suitable to the points of testing, and to provide allied facilities, exclusive of sampling and sensory devices. These provisions shall be made at the expense of the owner of the equipment. The owner shall be furnished with copies of the analytical results of the samples collected.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.05 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-108

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-108 Inspection and samples.

(a) The department may inspect at any reasonable time and in a reasonable manner any equipment, apparatus, fuel, matter or thing which affects or may affect the emission of air contaminant including but not limited to the premises where the equipment, apparatus, or fuel is used, or where the fuel is stored, purchased, sold, or offered for sale for use in New York city.

(b) The department may inspect at any reasonable time and in a reasonable manner any record relating to a use of equipment or apparatus which affects or may affect the emission of air contaminant, or relating to the use of fuel, or the distribution, storage or transportation of fuel for use in New York city.

(c) The department may, at any reasonable time and in a reasonable manner, obtain a sample of air contaminant, fuel, process material, or other material which affects or may affect the emission of air contaminant.

(d) If an authorized employee of the department obtains a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminant during the course of an inspection, he or she shall give to the owner of the equipment or fuel, prior to leaving the premises, a receipt for the sample obtained.

(e) No person shall refuse entry or access into the public areas of a multiple dwelling or a place of business to an authorized employee of the department who presents appropriate credentials nor shall any person refuse entry or access

into any other portion of a premises to an authorized employee of the department who presents appropriate credentials and a search warrant.

(f) The owner of every building, other than a oneor two-family home, shall make the area where the heating system or refuse burning equipment, or both, is located readily accessible to members of the department pursuant to the requirements of section 27-2033.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.07 added LL 49/1971 § 1

Sub f added LL 75/1982 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-109

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-109 Registrations generally.

(a) In addition to the registrations required by subdivision (b) of this section the commissioner may order the written registration of emission sources other than those located in one or two family dwellings and motor vehicles. A period of sixty days from publication in the City Record of the commissioner's order shall be allowed for the filing of such registration. In cases of an emergency, the commissioner may designate a shorter period of time.

(b) No person shall cause or permit the following unless he or she has first registered with the department:

(1) the spraying of any insulating material in or upon any building or other structure during its construction, alteration or repair;

(2) the demolition of any building or other structure, unless the building or structure is being demolished pursuant to chapter one of title seventeen or article eight of subchapter two of chapter one of title twenty-six of the code.

(3) The installation, alteration, use or operation of any fuel burning equipment which in the aggregate, feeding into a common emission point, has a Btu input or gross output equal to or greater than three hundred fifty thousand Btu per hour but less than one million Btu per hour.

(4) The installation, alteration, use or operation of any fuel burning equipment which in the aggregate, feeding

into a common emission point, has a Btu input or gross output equal to or greater than three hundred fifty thousand Btu per hour but less than 2.8 million Btu per hour and which uses a fuel gas, gasoline, or fuel oil grades Nos. 1 or 2 as classified by the American society for testing and materials.

(c) Registration shall be made on forms furnished by the department.

(1) Forms for registration pursuant to subdivision (a) of this section may require information concerning the unit of equipment covered by the registration, the kind and amount of air contaminant emitted by the equipment, medical and other scientific information concerning the effects of the air contaminant on persons, animals, and plants, and any additional information required by the commissioner for the purpose of enforcing this code.

(2) Forms for registration pursuant to paragraph one of subdivision (b) of this section shall require information concerning the kind and amount of insulating material that will be sprayed, the composition of the insulating material, medical and other scientific information concerning the effects of the insulating material on persons, animals, and property, the precautions that will be taken to prevent the insulating material from being emitted into the open air, and any additional information required by the commissioner for the purpose of enforcing this code. Registration for spraying of insulating material shall be filed at least five days prior to commencement of such spraying work.

(3) Forms for registration pursuant to paragraph two of subdivision (b) of this section shall require information concerning the kind and amount of particulate matter that it is reasonably anticipated may be released as a result of the demolition, the precautions that will be taken to prevent particulate matter from becoming air-borne, and any additional information required by the commissioner for the purpose of enforcing this code.

(4) The registrant shall maintain the registration in current status by notifying the commissioner of any change in any item of information furnished in compliance with this section, other than a change in ownership, within a reasonable time not to exceed fifteen days.

(d) Registration shall be made by the following persons:

(1) If the registrant is a partnership or group other than a corporation, the registration shall be made by an individual who is a member of the group.

(2) If the registrant is a corporation, the registration shall be made by an officer of the corporation.

(3) In the case of registration pursuant to subdivision (a) of this section by the owner of the equipment.

(4) In the case of registration pursuant to paragraph one of subdivision (b) of this section, by the person responsible for the construction, alteration or repair of the building or other structure in or upon which spraying will occur.

(5) In the case of registration pursuant to paragraph two of subdivision (b) of this section, by the person responsible for the demolition of the building or structure.

(e) Registration shall be made in duplicate. Upon approval thereof, a stamped copy of the registration shall be returned to the registrant, and shall be displayed in accordance with section 24-113 of this subchapter.

(f) Registration of equipment or apparatus shall be valid for a period of up to three years from the date of approval of the initial registration or renewal, unless sooner revoked or cancelled by the commissioner. Where a registration is renewed after its expiration, the registration fee charged in accordance with the provisions of this part shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that registration was not required under the provisions of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) pars. (3), (4) amended L.L. 48/1989 § 1.

DERIVATION

Formerly § 1403.2-3.09 added LL 49/1971 § 1

Amended LL 55/1980 § 2

Sub f amended LL 49/1985 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-110

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-110 Variances.

(a) The commissioner may grant individual variances, except to governmental agencies, beyond the limitations prescribed by this code, whenever it is found, upon presentation of adequate proof, that compliance with any provision of this code, or with any regulation or order of the commissioner in respect to this code would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require and shall publish in the City Record no later than seven days after the granting of such variance a written opinion, stating the facts and reasons leading to his or her decision.

(b) Any variance granted pursuant to this section shall be granted for such period of time, not to exceed six months, as shall be specified by the commissioner at the time of the grant of such variance and upon the condition that the person who receives such variance shall make such periodic progress reports as the commissioner shall specify. Such variance may be extended for periods not to exceed six months by affirmative action of the commissioner, but only if satisfactory progress has been shown.

(c) Any person seeking a variance shall do so by filing a petition for variance in a form acceptable to the commissioner. The commissioner shall promptly give written notice of such petition to any person in the city who has in writing requested notice of variance petitions, and shall publish notice of such petition in the City Record. If the commissioner, in his or her discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within twenty-one days from the publication of notice in the City Record, then a

public hearing shall be held.

(d) The commissioner may grant individual or group variances beyond the sulfur content restriction prescribed by section 24-169 of this code, whenever it is found, upon presentation of adequate proof, that the supply of fuel oil is insufficient to meet the demands of residents of the city of New York for heat, hot water, and electrical power. Where an applicant can show that it has an insufficient reserve of fuel oil meeting the sulfur content requirements of this code and that it is unable to buy a sufficient amount of such fuel oil to meet its fuel oil demands during the pendency of its variance application, the commissioner may grant a variance for up to forty-five days without complying with the procedural requirement of this section, except for the publication requirement of subdivision (a). During the time in which a temporary variance is running, the commissioner shall review, as soon as practicable, the application for a variance treating it as any other variance application.

(e) With respect to a variance for the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair the commissioner shall in determining undue hardship take cognizance that such construction, alteration or repair was commenced or a permit has been granted for same by the department of buildings prior to August twentieth, nineteen hundred seventy-one or six months thereafter and that a non-asbestos spray material has not been approved for fireproof purposes by the department of buildings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.11 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-111

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-111 Interfering with or obstructing departmental personnel.

No person shall interfere with or obstruct the commissioner or any department employee in carrying out any duty for the commissioner or the board.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.13 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-112

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-112 False and misleading statements; unlawful reproduction or alteration of documents.

(a) No person shall knowingly make a false or misleading statement or submit a false or misleading document to the department as to any matter within the jurisdiction of the department.

(b) No person shall make, reproduce or alter or cause to be made, reproduced or altered a permit, certificate or other document issued by the commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.15 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-113

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-113 Display of permits, certificates and other notices; removal or mutilation prohibited.

(a) Any permit, certificate or registration required by this code shall be displayed in the vicinity of the equipment on the premises designated on the permit or certificate, or in the vicinity of the equipment which will be operated or supervised, or in the case of registration pursuant to subdivision (b) of section 24-109 of this code, in the vicinity of the premises designated on the registration.

(b) A notice containing the provisions of subchapters six, seven and eight of this chapter, or a summary of them, shall be displayed in the vicinity of the equipment of any vessel while it is in waters within the jurisdiction of the city of New York. The notice shall be in the language of the country of registry, and in the language commonly spoken by the crew of the vessel.

(c) A notice printed in not less than twelve point type shall be displayed in the vicinity of fuel burning equipment using residual oil containing information as may be prescribed by the commis- sioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.17 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-114

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-114 Enforcement of this code by other than compulsory means.

Nothing in this code shall prevent the commissioner from making efforts to obtain voluntary compliance by way of warning, notice or educational means. However, such non-compulsory methods need not be used before proceeding by way of compulsory enforcement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.19 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-115

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-115 Service of papers.

(a) Service of any written notice, order or decision required by this code shall be made on the owner as follows:

(1) Either by mailing the notice, order or decision directed to the owner of the equipment at the address listed in his or her application, permit or operating certificate or at the address where the equipment is located; or

(2) By leaving the notice, order or decision with the owner of the equipment, or if the owner is not an individual, with a member of the partnership or group concerned or with an officer or managing agent of the corporation.

(b) Service of any written notice, order or decision required by this code shall be made on a person:

(1) Either by mailing the notice, order or decision directed to the person at his or her principal place of business; or

(2) By leaving the notice, order or decision with the person, or if the person is not an individual, with a member of the partnership or group concerned, or with an officer or managing agent of the corporation.

(c) Service of any written notice required by this code shall be made on the department, commissioner or the board as follows:

(1) Either by mailing the notice to the commissioner; or

(2) By leaving the notice at the department with an employee of the department designated for this purpose.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.21 added LL 49/1971 § 1

CASE NOTES

¶ 1. Summary judgment should have been granted because service by mail citing violations of Air Pollution Control Code were in accordance with §24-115. The elaborate safeguards in Charter §1404 as to service are required only when plaintiff Board administratively enters and dockets its judgments. Reconciling these two sections regarding service is not irrational. Envtl. Cont. Bd. v. H.S.C. Mgt. Corp, 191 AD2d 267, 594 N.Y.S.2d 761 (1st Dept. 1993).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-116

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-116 Inconsistent provisions.

Insofar as the provisions of this code are inconsistent with the provisions of any other title of the code, or any rule or regulation of any governmental agency of the city of New York, the provisions of this code shall be controlling.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-3.23 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-117

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 3 REFUSE BURNING EQUIPMENT, REFUSE COMPACTING SYSTEMS AND REFUSE CONTAINERIZATION SYSTEMS

§ 24-117 Existing refuse burning equipment.

(a) Every owner of refuse burning equipment that has been operated at any time subsequent to January first, nineteen hundred sixty-five, whether such operation was required by law or not, shall, except as otherwise provided by this code:

(1) Resume or continue the operation of such refuse burning equipment; or

(2) Construct, maintain and operate a refuse compacting system in conformity with all applicable laws and regulations; or

(3) Install, maintain and operate a refuse containerization system in conformity with all applicable laws and regulations; or

(4) In the case of non-residential buildings or occupancies from which the department of sanitation has not collected refuse at any time subsequent to January first, nineteen hundred sixty-five, arrange for the continued collection of all refuse from such premises by a person, other than the department of sanitation, who is authorized to collect and remove refuse pursuant to applicable provisions of the code.

(b) No person subject to the provisions of subdivision (a) of this section shall construct a refuse compacting system except with the prior written permission of the department of buildings upon application filed at an office of the department of buildings. The department of buildings shall, in writing, promptly notify the commissioner of the receipt of any such application.

(c) No person subject to the provisions of subdivision (a) of this section shall install a refuse containerization system to be serviced by the department of sanitation except with the prior written permission of the department of sanitation upon application filed with the commissioner of sanitation. In considering any such application the commissioner of sanitation may take into account:

(1) The number, capacity and specifications of the containers to be used;

(2) The dimensions and suitability of the areas or rooms in which the containers are to be stored;

(3) The accessibility of the containers to vehicles operated by the department of sanitation for the collection of refuse;

(4) The frequency of collection of refuse and the cost to the department of sanitation of such collection which would be necessitated by the installation of the proposed refuse containerization system, as compared with the frequency and cost of such collection which would ensue upon the installation of either a refuse compacting system or other alternate refuse containerization system;

(5) The adverse public health and environmental effects which may arise from the installation and operation of the refuse containerization system, including, without limitation, provision of harborage for rodents, insects or other pests; and

(6) Such other factors as the commissioner of sanitation may deem necessary and proper.

(d) The department of sanitation shall collect, without charge, refuse resulting from the operation of a refuse compacting system constructed, maintained and operated in conformity with subdivision (a) of this section or of a refuse containerization system installed, maintained and operated in conformity with such subdivision, unless prior to May twentieth, nineteen hundred sixty-six, the department of sanitation of the city of New York was not obligated to collect without charge refuse from the structures in which such refuse compacting system or refuse containerization system is installed.

(e) The obligation of the department of sanitation under subdivision (d) of this section shall terminate:

(1) If the use of such structure is changed in such a manner that if such change had occurred prior to May twentieth, nineteen hundred sixty-six, the department of sanitation would not have been obligated to collect, without charge, refuse from such structure; or

(2) If, where the collection of refuse from such structure involves entry by the department of sanitation upon premises which are not owned and occupied by the city of New York, such department is not furnished with such indemnities and insurance protection as it may reasonably require.

(f) In the event of the sealing of refuse burning equipment by the board pursuant to section 24-178 of this code, any collection of refuse by the department of sanitation from the location of said refuse burning equipment shall be at the expense of the owner of said equipment. Said expenses shall be recoverd in a civil action brought in the name of the commissioner of sanitation.

(g) Notwithstanding any provision of this section to the contrary, the commissioner may authorize the discontinuance of the operation of certain refuse burning equipment as provided herein:

(1) Upon the application of any owner of refuse burning equipment in a multiple dwelling containing forty-two dwelling units or less per unit of refuse burning equipment, provided that the applicant shows to the satisfaction of the commissioner that it would not be reasonably practicable for the applicant to cause the equipment in such multiple dwelling to fully meet the standards and requirements of this code or to install a reasonably efficient refuse compacting system or refuse containerization system by reason of the physical characteristics of the multiple dwelling or otherwise.

(2) Upon the application of any owner of refuse burning equipment in a public building, in a public housing project operated by the New York city housing authority containing forty-two or less dwelling units, or in a building operated by a charitable or non-profit institution.

(3) Operation of such refuse burning equipment shall be discontinued within thirty days after notice to the applicant of the authorization permitting discontinuance. Notice shall be given by the mailing of a copy of the authorization to the applicant at the address designated in the application.

(4) Upon the discontinuance of operations pursuant to such authorization, the department of sanitation shall collect the refuse from the location of the refuse burning equipment designated in such authorization.

(h) Any person who does not resume or who discontinues the operation of refuse burning equipment pursuant to the provisions of this section shall immediately notify the commissioner to such effect in writing, and shall within thirty days after such notice seal such refuse burning equipment in accordance with all applicable laws and regulations. To insure such compliance, the department may from time to time inspect such refuse burning equipment in accordance with section 24-108 of this code, and the commissioner may issue such orders with regard to the sealing of such refuse burning equipment as he or she deems necessary and proper.

(i) The provisions of this section shall not apply to refuse burning equipment which is in a building to be demolished to permit the erection of a new building if:

(1) The new building application has been approved by the department of buildings; and

(2) Certificates of eviction have been issued by the state division of housing and community renewal, which is the city rent agency pursuant to section 26-403, where required; and

(3) Final order for eviction has been issued.

(j) Notwithstanding any provision of this section to the contrary, every owner of refuse burning equipment shall cease the operation of and remove or seal such refuse burning equipment within four years of the effective date of this subdivision. Substitution, modification or reduction by an owner of essential or required services subject to the provisions of the city rent and rehabilitation law or the rent stabilization law of nineteen hundred sixty-nine shall be permitted if such substitution, modification or reduction is necessary to comply with this subdivision and subdivision (a) of this section and is the minimum substitution, modification or reduction of essential or required services that is required for such compliance. This subdivision shall not apply to refuse burning equipment described in subdivisions one, two and three of section 24-118 of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (j) added L.L. 39/1989 § 4. [See Note after § 24-102.]

DERIVATION

Formerly § 1403.2-4.01 added LL 49/1971 § 1

Amended LL 32/1973 § 3

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-118

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 3 REFUSE BURNING EQUIPMENT, REFUSE COMPACTING SYSTEMS AND REFUSE CONTAINERIZATION SYSTEMS

§ 24-118 Installation of refuse burning equipment, other than municipal, prohibited; new installation.

No person shall cause or permit the installation of refuse burning equipment. This prohibition shall not apply to refuse burning equipment operated by:

(1) Any hospital, biological laboratory or other medical facility required to incinerate dressings, biological and obstetrical wastes, contagious and infectious materials, disposable syringes and needles, amputations, and general rubbish under the public health law or regulations thereunder; or

(2) The department or the department of sanitation in connection with sewage treatment plants and solid waste disposals; or

(3) The department of transportation in connection with waterborne marine transportation facilities operated under its jurisdiction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-4.03 added LL 49/1971 § 1

Amended LL 29/1974 § 1

CASE NOTES

¶ 1. A permit to Bronx-Lebanon Hospital Center and its operational consultant, Metro New York Health Waste Processing, Inc., for construction of a medical waste incinerator does not violate §24-118 which provides that a hospital is responsible for its medical waste incinerator but may employ a contractor to operate such equipment. The original permit issued in 1989 mentions only the hospital as operator, but during construction in 1991 the application was revised to name the hospital and its operating contractor. The revised application was a revision of the 1989 construction permit, a procedure regularly used by regulatory agencies for liability purposes. The construction permit was finalized in 1989 and the time to challenge has lapsed. The start-up and trial run shakedown period have been completed. Since the shakedown at issue was central to the original decision but implemented later, any complaints regarding the shakedown operation, as distinct from the operating permit are governed by the four-month period. Ferrer v. Appleton, 190 AD2d 146, 597 N.Y.S.2d 354, leave to appeal denied, 82 N.Y.2d 662, 610 N.Y.S.2d 149 [1993].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-119

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 3 REFUSE BURNING EQUIPMENT, REFUSE COMPACTING SYSTEMS AND REFUSE CONTAINERIZATION SYSTEMS

§ 24-119 Refuse compacting systems; multiple dwellings after May twentieth, nineteen hundred sixty-eight.

All multiple dwellings erected after May twentieth, nineteen hundred sixty-eight which are four or more stories in height and occupied by more than twelve families, or which are "class B" multiple dwellings as defined by the multiple dwelling law shall be provided with a refuse compacting system constructed, maintained and operated in conformity with all applicable laws and rules.

HISTORICAL NOTE

Section amended L.L. 74/1995 § 2, eff. Sept. 21, 1995.

Section added chap 907/1985 § 1

Subd. (b) par (2) amended L.L. 49/1991 § 12, eff. July 1, 1991.

DERIVATION

Formerly § 1403.2-4.05 added LL 49/1971 § 1

Amended LL 32/1973 § 3

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Administrative Code of the City of New York

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NYC Administrative Code 24-120

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-120 Installation and alteration; permit required.

No person shall cause or permit the installation or alteration of equipment or apparatus, except as provided in section 24-121 of this code, without first obtaining a permit from the commissioner, and such other licenses or permits as may be required by other governmental agencies and departments.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.01 added LL 49/1971 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-121

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-121 Permits, exemptions.

(a) A permit shall not be required for the installation or alteration of the following equipment or apparatus:

(1) Air conditioning, ventilating, or exhaust systems not designed to remove air contaminant generated by or released from equipment.

(2) Air contaminant detector or air contaminant recorder.

(3) Dilution ventilating systems for control of welding fumes and gases.

(4) Exhaust systems for controlling steam and heat.

(5) Fuel burning equipment, other than smoke house generators, which in the aggregate has a Btu input or gross output of not more than one million Btu per hour.

(6) Fuel burning equipment which in the aggregate has a Btu input or a gross output of less than 2.8 million Btu per hour and uses a fuel gas, gasoline or fuel oil grade No. 1 or 2 as classified by the American society for testing and materials.

(7) Fumigation vaults having an environmental rating of D in accordance with section 24-153 of this code.

(8) Installations for the preparation of food for on-site consumption or retail purchase, unless required pursuant to regulations issued by the commissioner.

(9) Internal combustion engines used to power motor vehicles or other stationary engines which have a Btu input of not more than three hundred fifty thousand Btu per hour.

(10) Laboratory equipment used exclusively for chemical or physical analyses of non-radioactive material.

(11) Refrigeration equipment used for cold storage.

(12) Sewing equipment.

(13) Vents used exclusively by tanks used in the storage of:

(i) Residual and distillate fuel oil; or

(ii) (A) sanitary or storm drainage systems; or

(B) steam or air safety valves; or

(iii) Liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.

(14) Type metal crucible or melting pots used in connection with printing presses and having an environmental rating of D in accordance with section 24-153 of this code.

(15) Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping.

(16) Vents used exclusively for:

(i) Sanitary or storm drainage systems; or

(ii) Steam or air safety valves; or

(iii) Storage tanks.

(17) Ventilating or exhaust systems for paint storage rooms or cabinets.

(18) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of condensed water for jet or barometric condensers.

(b) A permit shall not be required for the installation or alteration of equipment or apparatus in one and two-family dwellings.

(c) Although a permit is not required for the installation or alteration of the equipment or apparatus listed in subdivisions (a) and (b) of this section, such equipment and apparatus shall otherwise comply with this code.

(d) A permit shall not be required to begin an alteration of equipment or apparatus if delaying the alteration may endanger life or the supplying of essential services. The department shall be notified in writing of the alteration within twenty-four hours or on the first working day, after the alteration is commenced, and an application for a permit shall be filed within fourteen days after the day the alteration is commenced.

(e) Nothing in this section shall in any way alter, affect, or change any other requirement or law of any other governmental agency or department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.02 added LL 49/1971 § 1

Sub a amended LL 55/1980 § 3

Sub a par 2 amended LL 75/1982 § 3

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NYC Administrative Code 24-122

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-122 Operating certificates and renewal of operating certificates; when required.

(a) No person shall cause or permit the use or operation of equipment or apparatus for which an installation or alteration permit is required, except for the purpose of testing the equipment or apparatus or for the purpose of testing an experimental installation or alteration for a reasonable period of time, not exceeding thirty days, without first obtaining an operating certificate from the commissioner. The provisions of this subdivision concerning an experimental installation or alteration shall not apply to an installation or alteration for the purpose of obtaining a sulfur exemption certificate.

(b) Except as provided in subdivision (c) of this section, or in paragraphs three and four of subdivision (b) of section 24-109, no person shall cause or permit the use or operation of the following equipment, or cause or permit the keeping of any such equipment so as to be capable of being used or operated, without first obtaining an operating certificate from the commissioner.

(1) Fuel burning equipment using liquid, gaseous or solid fuel;

(2) Equipment used in a process;

(3) Portable equipment powered by an internal combustion engine other than a motor vehicle;

(4) Refuse burning equipment, including equipment operated by the department;

(5) Any equipment which was required by law to have an operating certificate prior to January ninth, nineteen hundred eighty-three.

(c) An operating certificate is not required for fuel burning equipment or refuse burning equipment which is in a building to be demolished to permit the erection of a new building if:

(1) The new building application has been approved by the department of buildings; and

(2) Certificates of eviction have been issued by the department of housing preservation and development where required; and

(3) Final order for eviction has been issued.

(d) (1) An operating certificate for equipment, except refuse burning equipment, shall be valid for a period of up to three years from the date of issuance, unless sooner revoked or cancelled by the commissioner.

(2) An operating certificate for refuse burning equipment shall be valid for a period of up to eighteen months from the date of issuance, unless sooner revoked or cancelled by the commissioner.

(3) Where an operating certificate described in paragraph one or paragraph two of this subdivision is renewed after its expiration, the fee for such certificate charged in accordance with the provisions of this chapter shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that such certificate was not required under the provisions of this title.

(e) An operating certificate is not required for equipment or apparatus the installation or operation of which would not require a permit pursuant to section 24-121.

(f) If equipment or apparatus for which an operating certificate has been issued is dismantled or rendered inoperable, the owner of such equipment or apparatus shall notify the department within twenty days on forms furnished by the department. If the commissioner finds to his or her satisfaction that such equipment or apparatus has been dismantled or rendered inoperable, renewal of the operating certificate shall not be required for as long as the equipment or apparatus remains dismantled or inoperable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.05 added LL 49/1971 § 1

Repealed and added LL 75/1982 § 4

Sub b par 2 amended LL 49/1985 § 3

Sub d repealed and added LL 49/1985 § 4

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NYC Administrative Code 24-123

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-123 General requirements for applications for permits, certificates, and renewal of certificates.

(a) Application for an installation or alteration permit, for a certificate or for the renewal of a certificate shall be made by the owner of the equipment or apparatus on forms furnished by the department. If the applicant is a partnership or group other than a corporation, the application shall be made by one individual who is a member of the group. If the applicant is a corporation, the application shall be made by an officer of the corporation.

(b) Applications for permits, and operating certificates required by subdivision (b) of section 24-122 of this code, shall be filed at the department of buildings except that such applications shall be filed with the department of ports and trade with respect to buildings under the jurisdiction of such department.

(c) A separate application is required for each unit of equipment or apparatus, unless identical units of equipment or apparatus are to be installed, altered or operated in an identical manner in the same building.

(d) Each application shall be signed by the applicant and professionally certified as to the accuracy of the technical information concerning the equipment or apparatus contained in the application, plans and other papers submitted. In the case of an application for the operating certificate required by this code, the certifying engineer or architect shall also certify that he or she inspected the equipment and that the equipment satisfies the provisions of this code. For the renewal of a certificate, the applicant's professional engineer or architect shall certify that the equipment satisfies the provisions of this code. The signature of the applicant shall constitute an agreement that the applicant will

assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this code.

(e) Application for the renewal of an operating certificate shall be filed no later than ninety days prior to the expiration of the certificate.

(f) Application for an installation or alteration permit or for an operating certificate is automatically cancelled if a certificate of workers' compensation and a certificate of disability insurance is not filed with the department within sixty days after service on the applicant of a notice of failure to file such certificate, exclusive of the day of service.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended L.L. 14/1989 § 21.

DERIVATION

Formerly § 1403.2-5.07 added LL 49/1971 § 1

Sub b amended LL 5/1986 § 23

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NYC Administrative Code 24-124

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-124 Information required for applications for permits, sulfur exemption certificates.

(a) Each application for a permit or installation or alteration of experimental equipment or apparatus shall be in a manner prescribed by the commissioner.

(b) An application for the installation or alteration of control apparatus to obtain a sulfur exemption certificate shall describe in deatil*11 the following:

(1) The kind and amount of fuel for which the sulfur exemption certificate is sought; and

(2) The location of the fuel burning equipment; and

(3) The manner of operation of the fuel burning equipment; and

(4) Any additional information, evidence or documentation which may be required by the commissioner.

(c) Information concerning secret processes which may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a departmental court proceeding or department or board hearing, the information is relevant to the proceeding or hearing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.09 added LL 49/1971 § 1

FOOTNOTES

11

[Footnote 11]: * So in original. (Word misspelled.)

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NYC Administrative Code 24-125

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-125 Standards for granting permits.

(a) Except as provided in section 24-126 of this code, no permit shall be granted unless the applicant demonstrates and/or certifies to the satisfaction of the commissioner that:

(1) The equipment is designed and will be installed or altered to operate in accordance with the provisions of this code;

(2) The equipment incorporates advances in the state of the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment;

(3) The equipment is designed and will be installed or altered consistent with any regulations for such equipment issued by the commissioner;

(4) Equipment which will have a stack or duct three feet or more in diameter will be provided with:

(i) Sampling ports of a size, number and location as the department may require, and

(ii) Safe access to each port, and

(iii) Such other sampling and testing facilities as the commissioner may require;

(5) Refuse burning equipment operated by the department contains control apparatus which meets the performance standards prescribed by the commissioner;

(6) When required by the commissioner fuel burning equipment which will use residual fuel oil will be installed with an air contaminant detector together with either a combustion shutoff or, when acceptable to the commissioner, an air contaminant recorder, except that no combustion shutoff shall be required on fuel burning equipment used to generate steam for off-premises sale or electricity;

(7) All parts of the equipment can be readily cleaned and repaired; and

(8) Operation of the equipment will not prevent the attainment or maintenance of applicable emission criteria.

(b) In order to reduce the emission of air contaminants and to insure optimum combustion in fuel burning equipment and refuse burning equipment, such equipment shall be shown to the satisfaction of the commissioner to:

(1) Be of a proper size to handle the planned load, be located in a proper place, incorporate appropriate apparatus and have proper operating, regulating and control devices; and

(2) Be operated at appropriate times and by appropriate persons; and

(3) Burn fuel or refuse determined by the commissioner to be appropriate for the specific size and type of equipment.

(c) The commissioner may require that any equipment or apparatus with respect to which a permit is required, or any class or category of such equipment or apparatus, be included on a list of accepted equipment or apparatus maintained by the department. No acceptance for listing of equipment or apparatus shall be granted unless the applicant demonstrates and/or certifies to the satisfaction of the commissioner that such equipment or apparatus complies with all applicable provisions of this code (including the requirements of subdivisions a and b of this section) and of the rules concerning engineering criteria for fuel burning equipment and such other applicable rules as the commissioner may promulgate pursuant to this code. An application for acceptance shall be accompanied by the required fee.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (c) added L.L. 58/1991 § 1, eff. July 17, 1991.

DERIVATION

Formerly § 1403.2-5.11 added LL 49/1971 § 1

Amended LL 87/1977 § 1

Sub c repealed LL 75/1982 § 5

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NYC Administrative Code 24-126

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-126 Conditional approval of permits.

The commissioner may grant a permit for an experimental installation or alteration on conditional approval if it appears likely from all of the information submitted that the installation or alteration when completed may satisfy the standards of section 24-125 of this code. The permit shall be for a reasonable time, not to exceed three years. This section shall not apply to a permit for the purpose of obtaining a sulfur exemption certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.13 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-127

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-127 Cancellation of installation and alteration permits.

(a) The commissioner may cancel a permit for the installation of equipment or apparatus in new buildings if the installation is not completed within one year from the date of issuance of the permit or if work on the installation under permit is suspended for more than ninety days.

(b) When not a new building, the commissioner may cancel a permit for the installation or alteration of equipment or apparatus if the installation or alteration is not begun within ninety days from the date of issuance of the permit or if the work of the installation or alteration is suspended for more than thirty days or if the installation or alteration is not completed within six months.

(c) With the consent of the commissioner, and in his or her discretion, an applicant may secure an extension of the expiration date on written request to the commissioner stating the reasons therefor. Extensions may be granted for a period of not more than six months.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.15 added LL 49/1971 § 1

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NYC Administrative Code 24-128

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CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-128 Standards for granting or renewing operating certificates.

(a) No operating certificate shall be granted for the use or operation of equipment or apparatus for which an installation or alteration permit is required unless the applicant shows to the satisfaction of the commissioner that the equipment or apparatus satisfies the standards of section 24-125 of this code and is installed or altered in accordance with the requirements and conditions contained in the permit, or if installed or altered in a manner which deviates from the permit, that the deviation from the permit does not adversely affect the emission of air contaminant.

(b) No operating certificate shall be granted for the use or operation of existing equipment for which a certificate is required by subdivision (b) of section 24-122 of this code unless the applicant files an application and plans as required by section 24-124 of this code for installation and alteration permits, and shows to the satisfaction of the commissioner that:

(1) The equipment satisfied the standards required by section 24-125 of this code for the granting of a permit for similar new or altered equipment, with the exception of the requirements relating to stacks and ducts in paragraph four of subdivision (a) of section 24-125 of this code; and

(2) Refuse burning equipment includes the installation and use of:

(i) An auxiliary gas burner regulated by automatic firing clocks; and

(ii) An overfire air fan and nozzle system; and

(iii) Control apparatus such as a scrubber and/or additional control apparatus or such equivalent as may be determined by the commissioner.

(iv) Subparagraphs (i) and (ii) shall not apply to refuse burning equipment operated by the department of sanitation.

(3) Fuel burning equipment using residual fuel oil includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic oil temperature maintenance device; and

(iii) An automatic water temperature device or its equivalent; and

(iv) Such additional control apparatus as may be determined by the commissioner.

(4) Fuel burning equipment using solid fuel includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic water temperature maintenance device or its equivalent; and

(iii) Such additional control apparatus as may be determined by the commissioner.

(c) No operating certificate shall be renewed for the use or operation of equipment or apparatus unless the applicant shows to the satisfaction of the commissioner that the equipment or apparatus covered by such certificate continues to satisfy the standards established in the code or by rules or regulations thereunder in effect on the date of the issuance of the original operating certificate.

(d) An application for an operating certificate or any renewal or reinstatement thereof may be denied by the commissioner if any board penalty against the owner of equipment or apparatus which is the subject of the application has not been complied with or satisfied.

(e) If an owner fails to make application to renew an operating certificate within one hundred eighty days from the date of mailing of notice by the commissioner that such application is required, such owner shall be required to file a new application for a permit pursuant to section 24-125.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.17 added LL 49/1971 § 1

Subs d, e added LL 75/1982 § 6

CASE NOTES

¶ 1. Pursuant to the Ad Code of the City of NY § 27-128, an absentee landlord's statutory responsibility for the "safe maintenance of the building and facilities" extends beyond structural defects to the building to transient unsafe conditions caused by the tenant, where the tenant had contracted to maintain and repair the premises and the landlord

maintain the right to reenter to inspect and make repairs; therefore landlord is legally responsible for tenant's unsafe stacking of boxes and cartons in the basement storage area. Sergio v. Benjolo N.V., 146 Misc. 2d 1011.

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NYC Administrative Code 24-129

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-129 Testing before granting or renewing of operating certificates and sulfur exemption certificates.

(a) Before an operating certificate, or a sulfur exemption certificate as provided by subdivision (a) of section 24-171 of this code is granted or renewed, the commissioner may require the applicant to conduct such tests as are necessary in the opinion of the commissioner to determine the kind or amount of air contaminant emitted from the equipment, or to determine whether the equipment or apparatus, its operation, or the fuel or material used is contributing to, or is in, violation of this code. The test shall be made at the expense of the applicant.

(b) Such tests shall be conducted, reviewed and certified as provided by subdivision (b) of section 24-107 of this code. The applicant shall notify the department of the time and place of a test as provided by subdivision (c) of section 24-107 of this code. Reasonable facilities shall be made available for the department to witness the test.

(c) If in the opinion of the commissioner tests by the department are necessary, the facilities for such tests, exclusive of sampling and sensory devices, shall be furnished by and at the expense of the owner or lessee or his or her agent as provided by subdivision (d) of section 24107 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.19 added LL 49/1971 § 1

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NYC Administrative Code 24-130

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-130 Action on applications for permits and certificates.

(a) The commissioner shall act within a reasonable time not to exceed sixty days on an application for a permit or certificate, or for a renewal of a certificate, and shall notify the applicant in writing of his or her approval or disapproval of the application.

(b) If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval or notice of violation.

(c) Within sixty days after service on the applicant of the notice of disapproval or notice of violation exclusive of the day of service, the applicant may request the commissioner to reconsider the application by answering in writing the commissioner's objection to the application.

(d) The commissioner shall consider the applicant's answer to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to answer or request an extension of time within sixty days after service of the notice of disapproval or a notice of violation shall be deemed a denial of the application.

(e) The commissioner may grant a temporary operating certificate for a period not to exceed sixty days upon receipt of an application for the granting or renewal of an operating certificate and may, at his or her discretion, renew a

temporary operating certificate for an additional period not to exceed sixty days.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.21 added LL 49/1971 § 1

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NYC Administrative Code 24-131

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-131 Conditions of permits and certificates to be observed.

The holder of a permit or certificate shall comply with the conditions and terms contained therein as well as all applicable provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.23 added LL 49/1971 § 1

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NYC Administrative Code 24-132

Administrative Code of the City of New York

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SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-132 Suspension or revocation of permits and certificates.

(a) The commissioner shall suspend or revoke a permit or certificate when ordered to do so by the board pursuant to subchapter nine of this code.

(b) Suspension or revocation of a permit or certificate shall become final five days after service of notice, exclusive of the day of service, on the holder of the permit or certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.25 added LL 49/1971 § 1

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NYC Administrative Code 24-133

Administrative Code of the City of New York

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SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-133 Denial of permits and certificates; departmental hearing, stay of action.

(a) When the commissioner has made a final decision denying an application for a permit or certificate, the applicant for the permit or certificate may request a hearing by the commissioner to reconsider his or her action. The request for a hearing shall be served within fifteen days following service of notice of denial, exclusive of the day of service, upon an employee of the department designated for this purpose.

(b) The request for a hearing shall be in a manner prescribed by the commissioner.

(c) The person making the request shall submit a memorandum containing his or her objections to the action of the commissioner within five days following service of the request for a hearing, exclusive of the day of service.

(d) The commissioner or the designated hearing officer conducting such hearings shall:

(i) follow the procedures found in section 24-184 of this code; and,

(ii) commence the hearing within thirty days after receiving the applicant's memorandum.

(e) At the conclusion of the hearing, the commissioner or hearing officer shall issue a decision in compliance with section 24-186 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.27 added LL 49/1971 § 1

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NYC Administrative Code 24-134

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-134 Surrender of permits and certificates.

A permit or certificate which has been cancelled or revoked pursuant to this code shall be surrendered forthwith to the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.29 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-135

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 4 PERMITS AND CERTIFICATES

§ 24-135 Transfer of permits and certificates.

(a) Any purported or attempted transfer of a permit automatically revokes the permit.

(b) Any purported or attempted transfer of a certificate automatically revokes the certificate, except that upon conveyance of the premises in which the equipment is located a certificate may be transferred to a person other than the person named in the cer- tificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-5.31 added LL 49/1971 § 1

NYC Administrative Code 24-136

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-136 Permit fees; schedules.

(a) If more than one of the fee schedules prescribed by subdivision (c) of this section is applicable to the equipment, the governing schedule shall be the one which results in the highest fee.

(b) If a process is to be installed or altered which has a number of units of equipment, a separate fee shall be paid for each unit of equipment.

(c) the fee for a permit to install or certificate to operate equipment shall be as follows:

(1) For fuel burning equipment in which the heat from the combustion of the fuel is transmitted through a heat transfer surface, or in which the heat from the combustion of the fuel is transmitted directly to the material being processed, the fee shall vary with the type of fuel used and the gross input rating at maximum designed fuel consumption of the equipment. The fee shall be as set forth in schedule A.

SCHEDULE A

FEES FOR FUEL BURNING EQUIPMENT

Gross Input Rating or Designed Fuel Consumption Rating in Millions of Btu/Hr	Fee

1.0 to less than 4.2	2.8 to less than 10	$345
4.2 to less than 7.0	10 to less than 20	470
7.0 to less than 14.0	20 to less than 35	595
14.0 to less than 21.0	35 to less than 50	700
21.0 to less than 28.0	50 to less than 70	830
28.0 to less than 35.0	70 to less than 100	940
35.0 to less than 42.0	100 to less than 140	1440
42.0 or greater	140 or greater	1440 + 125 per ea. add'l ten million Btu/Hr or fraction thereof

(2) For refuse burning equipment, the fee shall vary with the maximum horizontal inside cross sectional area of the primary combustion chamber, as set forth in schedule B.

[See tabular material in printed version]

(3) For equipment other than fuel burning equipment and refuse burning equipment the fee shall vary with the designed discharge in cubic feet of gas emitted from the equipment at standard conditions of 30 inches of mercury barometric pressure and 60 degrees F. of temperature, as set forth in Schedule C.

SCHEDULE C

FEES FOR EQUIPMENT OTHER THAN FUEL BURNING

OR REFUSE BURNING EQUIPMENT

Cubic feet of gas emitted from the equipment per minute	Environmental Rating			
	D	C	B	A
5,000 or less	$200	250	280	315
5,001 through 20,000	375	470	525	590
20,001 through 50,000	565	700	795	875
50,001 through 100,000	750	940	1060	1175
100,001 or more	1125	1405	1580	1750

(d) The fee for a permit to install apparatus shall be as follows: (1) If the apparatus is to be installed at the same time as the installation of the equipment which it will serve, no fee shall be charged.

(2) If the apparatus is to be installed to serve already existing equipment which has an operating certificate, no fee shall be charged.

(3) If the apparatus is to be installed to serve already existing equipment which does not have an operating certificate, the amount of the fee to install the apparatus shall be the amount payable for a permit to install the equipment itself.

(e) The fee for a permit to alter equipment shall be as follows:

(1) If the alteration will modify or change the design, process or arrangement of the equipment, the fee shall be the amount payable for a permit to install the unit of equipment to be altered.

(2) If the alteration will increase the capacity of the equipment and the equipment has an operating certificate,

the fee shall be based upon the increase in the gross output rating, designed fuel consumption, horizontal inside cross-sectional area of the primary combustion chamber or cubic feet of gas emitted per minute in the amount prescribed by the appropriate schedule as set forth in subdivision (c) of this section.

(3) If the alteration will increase the capacity of the equipment and the equipment does not have an operating certificate, the fee shall be the amount payable for a permit to install the unit of equipment to be altered.

(f) The fee for a permit to alter apparatus shall be as follows:

(1) If the equipment served by the apparatus has an operating certificate, no fee shall be charged.

(2) If the equipment served by the apparatus does not have an operating certificate, the fee shall be the amount payable for a permit to install the equipment.

(g) (1) The fee to amend a permit to install or alter equipment applications that have been issued a notice of disapproval because of an unacceptable design shall be equal to fifty percent of the fee required for the permit to install or alter equipment.

(2) The fee to reinstate a cancelled application for a permit to install or alter equipment shall be equal to the fee required for the permit to install or alter equipment.

(3) The fee to amend a permit to install or alter equipment prior to an operating certificate for such equipment shall be equal to ten percent of the fee required for the permit to install or alter equipment.

(4) If an application for a permit is cancelled or denied, no portion of the fee shall be refunded or applied to any subsequent application.

(5) The fee to amend an application for a permit to install or alter equipment or control apparatus, where a notice of disapproval has been issued because of an incomplete application, shall be 95 dollars.

(6) The fee to amend a permit or an application for a permit to install or alter equipment or control apparatus in any instance not provided for in paragraphs one through five of this subdivision shall be 65 dollars.

(h) The fee for an authorization to discontinue the operation of refuse burning equipment shall be $50.00.

(i) The fee for an application to reinstate an expired permit to install or alter equipment or apparatus filed more than thirty days but less than one hundred eighty days after the expiration date of the permit shall be equal to fifty percent of the fee for the permit to install or alter equipment.

(j) The fee for an application to reinstate an expired permit to install or alter equipment or apparatus more than one hundred eighty days after the expiration date of the permit shall be equal to the fee for a permit to install or alter equipment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (c) amended L.L. 48/1989 § 2

Subd. (g) pars. (5), (6) amended L.L. 48/1989 § 3

DERIVATION

Formerly § 1403.2-7.01 added LL 49/1971 § 1

Sub c amended LL 14/1975 § 1

Sub e amended LL 14/1975 § 2

Sub f amended LL 14/1975 § 3

Sub h amended LL 14/1975 § 4

Sub c repealed and added LL 55/1980 § 4

Sub g repealed and added LL 55/1980 § 5

Sub h amended LL 55/1980 § 6

Sub c par 1 amended LL 75/1982 § 7

(Incorrect reference to 1402.3-7.01 by LL 75/1982 § 7)

Subs i, j added LL 75/1982 § 8

Sub c repealed and added LL 49/1985 § 5

Sub g pars 5, 6 added LL 49/1985 § 6

Sub h amended LL 49/1985 § 7

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-137

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-137 Operating certificate fees.

(a) A person applying for an operating certificate or a renewal of an operating certificate shall pay for each such operating certificate or renewal a fee in accordance with subdivision (c) of section 24-136 of this code.

(b) The fee for each field reinspection required because of a notice of disapproval for a major deficiency shall be equal to the fee required in subdivision (a) of this section.

(c) There shall be an additional fee imposed for each operating certificate issued or renewed on the basis of a notarized affidavit supplied in response to a notice of disapproval for a minor deficiency issued after a field inspection that shall be equal to fifty percent of the fee required in subdivision (a) of this section.

(d) The expiration date of a valid operating certificate may be abridged by the commissioner for the convenience of the department for good cause shown. The fee to renew the abridged operating certificate shall be reduced by one thirty-sixth for each full or partial month that the unabridged operating certificate would have been valid.

(e) (1) The fee for an operating certificate for equipment, except refuse burning equipment, issued for a period other than three years shall be prorated on the basis of one thirty-sixth of the full fee for each full month of the duration of the certificate.

(2) The fee for an operating certificate for refuse burning equipment issued for a period other than twelve months shall be prorated on the basis of one-twelfth of the full fee for each full or partial month of the duration of the certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 48/1989 § 4

Subds. (d), (e) amended L.L. 48/1989 § 5

DERIVATION

Formerly § 1403.2-7.03 added LL 49/1971 § 1

Amended LL 14/1975 § 5

Amended LL 55/1980 § 7

Sub e added LL 75/1982 § 9

Sub e repealed and added LL 49/1985 § 8

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NYC Administrative Code 24-138

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-138 Administrative fees.

(a) A person requesting the issuance of a certificate of instruction under section 24-161 of this code shall pay a fee of 25 dollars.

(b) A person requesting a copy of a permit, operating or registration certificate or other public record in the administration's files kept pursuant to this code, or a record search, or a certification shall pay the following fees:

(1) For one copy of a permit, a fee of 6 dollars.

(2) For one copy of an operating certificate, a fee of 10 dollars.

(3) For one copy of a registration certificate, a fee of 10 dollars.

(4) For each copy of a document, other than a permit or operating or registration certificate, a fee of 6 dollars. If the record cannot be duplicated by the administration with its own equipment, a fee of 6 dollars plus the cost of commercial duplication.

(5) For each additional copy made as part of a request for multiple copies of any of the aforementioned documents, a fee of 2 dollars for each additional copy.

(6) For each record search concerning a single premise, a fee of 30 dollars.

(7) For one certification, a fee of 6 dollars; for each additional certification a fee of 4 dollars.

(c) The owner filing an environmental rating report pursuant to section 24-154 of this code shall pay a fee in accordance with schedule D.

[See tabular material in printed version]

(d) A person who submits an application for acceptance for listing of any equipment or apparatus pursuant to subdivision c of section 24-125 of this chapter shall pay the following fee:

(1) For each application for acceptance of fuel burning equipment rated at less than 2.8 million Btu per hour input or gross output firing rate, whichever is greater, $400.00.

(2) For each application for acceptance of fuel burning equipment rated at equal to or greater than 2.8 million Btu per hour input or gross output firing rate, whichever is greater, $600.00.

(3) For each application for acceptance of apparatus, or of equipment other than fuel burning equipment, $400.00.

(4) For each application for an amendment of prior acceptance of equipment or apparatus, $300.00.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 48/1989 § 6

Subd. (d) added L.L. 58/1991 § 2, eff. July 17, 1991

DERIVATION

Formerly § 1403.2-7.05 added LL 49/1971 § 1

Amended LL 14/1975 § 6

Sub a amended LL 55/1980 § 8

Sub b par 6 amended LL 55/1980 § 9

Sub c amended LL 55/1980 § 10

Sub d added LL 55/1980 § 11

Amended LL 49/1985 § 9

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-139

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-139 Departmental publication fees.

The department may charge for a copy of its publication a fee in an amount not to exceed the unit cost of the preparation and distribution of the publication.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-7.07 added LL 49/1971 § 1

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NYC Administrative Code 24-140

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-140 Administrative fees.

(a) A person applying for the registration of the demolition of a building shall pay a fee to be computed by multiplying the street frontage in feet by the number of stories of the building times 25 cents, provided that the minimum fee shall not be less than $250.00. Wherever a building shall have frontage on more than one street, the longer frontage shall be used in the above computation.

(b) A person applying for the registration of the spraying of insulating material shall pay a fee to be computed by multiplying the street frontage in feet by the number of stories of the building times 60 cents, provided that the minimum fee shall not be less than $250.00. Wherever a building shall have frontage on more than one street, the longer frontage shall be used in the above computation.

(c) A person applying for or renewing the registration of equipment shall pay a fee of $110.00 for each such registration or renewal with respect to equipment which in the aggregate, feeding into a common emission point, has a Btu input or gross output equal to or greater than 350,000 Btu per hour but less than 1 million Btu per hour, and $190.00 for each such registration or renewal with respect to equipment which in the aggregate has a Btu input or gross output equal to or greater than 1 million Btu per hour but less than 2.8 million Btu per hour feeding into a common emission point. A person applying for or renewing the registration of other equipment shall pay a fee of $190.00 for each such registration or renewal.

(d) A person issued a registration of equipment or apparatus for a period of less than three years shall pay a pro-rated registration fee on the basis of one thirty-sixth of the full fee for each full month of the registration period.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. (a), (b), (c) amended L.L. 48/1989 § 7

DERIVATION

Formerly § 1403.2-7.09 added LL 14/1975 § 7

Amended LL 55/1980 § 12

Amended LL 49/1985 § 10

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NYC Administrative Code 24-140.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 5 FEE SCHEDULES

§ 24-140.1 Exemptions.

The provisions of Sections 24-136 and 24-137, and subdivisions (c) and (d) of section 24-140 of this code, insofar as such provisions impose fees relating to fuel burning equipment or refuse burning equipment, or to any apparatus to serve such equipment, shall not be applicable if such equipment is owned or operated by, and located within premises owned or operated by, a corporation or association organized and operated exclusively for religious, charitable or educational purposes, or for one or more such purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and provided that such equipment and the portion of the premises upon which it is located are to be used exclusively by such corporation or association for one or more such purposes.

HISTORICAL NOTE

Section added L.L. 55/1987 § 1.

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***** Current through December 2009 ****

NYC Administrative Code 24-141

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-141 Emission of air contaminant (including odorous air contaminant) or water vapor; detriment to person, property or plant and animal life.

No person shall cause or permit the emission of air contaminant, including odorous air contaminant, or water vapor if the air contaminant or water vapor causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.

(a) The prohibition of this section includes, but is not limited to, emission of the following air contaminant:

(1) Air contaminant that contain cadmium, beryllium, mercury or any compounds thereof;

(2) Air contaminant containing asbestos, except where such an air contaminant is emitted from the brake lining of a motor vehicle during normal use.

(b) The prohibition of this section includes, but is not limited to, emissions of odorous air contaminant from the following sources:

(1) Aircraft engines,

(2) Ammonia, bleaching powder or chlorine manufacture,

(3) Asphalt manufacture or refining,

(4) Blood processing,

(5) Bag cleaning,

(6) Coal tar products manufacture,

(7) Compost heaps,

(8) Crematory,

(9) Creosote treatment or manufacture,

(10) Diesel engines,

(11) Disinfectants manufacture,

(12) Distillation of bones, coal or wood,

(13) Dyestuff manufacture,

(14) Fat rendering,

(15) Fertilizer manufacture and bone grinding,

(16) Fish processing,

(17) Glue, size or gelatin manufacture,

(18) Incineration or reduction of garbage, dead animals, offal or refuse,

(19) Oiled rubber or leather goods manufacture,

(20) Paint, oil, shellac, turpentine or varnish manufacture,

(21) Paper and pulp manufacture,

(22) Petroleum refining,

(23) Plastic or resin manufacture,

(24) Processing of food stuffs,

(25) Rubber manufacture,

(26) Shoe-blackening manufacture,

(27) Soap and detergent manufacture,

(28) Slaughter-houses,

(29) Sulfuric, nitric or hydrochloric acid manufacture,

(30) Tanning, curing or storage of rawhides or skins,

(31) Tar distillation or manufacture,

(32) Tar roofing or waterproofing manufacture.

(c) The prohibition of this section, however, shall not include emissions of the air contaminants in paragraph (a) when restricted to the following quantities:

(1) cadmium-0.15 micrograms per cubic meter.

(2) beryllium-10 nanograms per cubic meter.

(3) mercury-0.1 microgram per cubic meter.

(4) asbestos-27 nanograms per cubic meter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.01 added LL 49/1971 § 1

CASE NOTES

¶ 1. New Amber Auto Service v. New York City Environmental Control Board, 163 Misc.2d 613, 619 N.Y.S.2d 496 (Sup.Ct. New York Co. 1994). The court rejected a challenge that the section was unconstitutionally vague. A statute is unconstitutionally vague on its face if it specifies no comprehensible standard or guide capable of interpretation or when it cannot be validly applied to any conduct. So long as a statute has a core meaning that can reasonably be understood it can be applied to conduct within that core meaning. Here, the statute was sufficient since important terms, such as "air contaminant," are defined elsehwhere in the same article of the Administrative Code.

¶ 2. Section 24-141(b), which defines "air contaminants" to include "processing of food stuff," includes the usual odors of spicy foods which escaped into the complainant's apartment, where the odors are detrimental to health or safety. Burrito Factory v. City of New York, 270 A.D.2d 217, 706 N.Y.S.2d 383 (1st Dept. 2000), appeal dismissed, 95 N.Y.2d 848, 715 N.Y.S.2d 523 (2000).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-142

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-142 Emission of air contaminant; standard smoke chart.

(a) No person shall cause or permit the emission of air contaminant of: (1) A density which appears as dark or darker than number two on the standard smoke chart or of an opacity which obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart; or

(2) A density which appears as dark or darker than number one on the standard smoke chart, but less than number two on said chart, or of such opacity as to obscure vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, but less than number two on said chart, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(b) The density or opacity of an air contaminant shall be measured at the point of its emission, except:

(1) When the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission; or

(2) In the case of air contaminant emitted from a source outside of New York, it shall be measured after the plume crosses the jurisdictional boundary of New York city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.03 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-143

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-143 Emission of air contaminant from internal or external combustion engine; visibility standard.

No person shall cause or permit the emission of a visible air contaminant from the internal or external combustion engine of:

(a) A motor vehicle while the vehicle is stationary for longer than ten consecutive seconds; or

(b) A motor vehicle after the vehicle has moved more than ninety yards from a place where the vehicle was stationary.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.05 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-144

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-144 Emission of air contaminant; sulfur compounds; volume standard.

No person shall cause or permit the emission of air contaminant:

(a) from equipment used in a manufacturing process if the air contaminant emitted as measured in the flue contains sulfur compounds of more than five hundred parts per million of undiluted process emissions;

(b) from a boiler with a capacity of five hundred million Btu per hour or more and completed after August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has a sulfur dioxide content of more than one hundred parts per million by volume of undiluted emissions measured at ten percent excess air;

(c) from a boiler with a capacity of five hundred million Btu per hour or more and completed before August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has a sulfur dioxide content of more than two hundred parts per million by volume of undiluted emissions measured at ten percent excess air.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.07 added LL 49/1971 § 1

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NYC Administrative Code 24-145

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-145 Emission of particulate matter from refuse burning equipment and fuel burning equipment; weight-rate standard.

(a) No person shall cause or permit the emission of particulate matter from refuse burning equipment and fuel burning equipment if the emission from such equipment is in violation of the provisions of section 24-141 or 24-142 of this code or if the particulate matter emitted as measured in the flue exceeds the following limits:

(1) In refuse burning equipment, the permissible particulate rate shall be as provided in figure four of section 24-153 of this code. If two or more refuse burning units are connected to a single flue, the total capacity rating of all refuse burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single refuse burning unit is manifold to two or more flues the capacity rating of the single refuse burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted;

(2) In fuel burning equipment in which the preponderance of the particulate matter emitted is caused by the burning of fuel, 0.40 pounds for each million Btu per hour input if the equipment has a capacity rating of ten million Btu per hour or less. If the capacity rating of the fuel burning equipment is more than ten million Btu per hour, the amount of permissible emissions of particulate matter shall be as provided in figure three of section 24-153 of this code, as measured on a dry basis.

(b) If two or more fuel burning units are connected to a single flue, the total capacity rating of all fuel burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single fuel burning unit is manifold to two or more flues the capacity rating of the single fuel burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.09 added LL 49/1971 § 1

NYC Administrative Code 24-146

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-146 Preventing particulate matter from becoming air-borne; spraying of asbestos prohibited; spraying of insulating material and demolition regulated.

(a) No person shall cause or permit particulate matter to be handled, transported or stored without taking such precautions as may be ordered by the commissioner to prevent particulate matter from becoming air-borne.

(b) Six months after August twentieth, nineteen hundred seventy-one no person shall cause or permit the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair, except if permitted by a variance granted pursuant to subdivision (e) of section 24-110 of this chapter.

(c) No person shall cause or permit a building or its appurtenances or a road to be constructed, altered or repaired without taking such precautions as may be ordered by the commissioner to prevent particulate matter from becoming air-borne.

(d) No person shall cause or permit untreated open areas located within the boundaries of a zoning lot as defined by section 12-10 of the zoning resolution of the city of New York to be maintained without taking reasonable precautions to prevent particulate matter from becoming air-borne.

(e) No person shall cause or permit the spraying of any insulating material, not otherwise prohibited by this section, in or upon any bu- ilding or other structure during its construction, alteration or repair, unless he or she

complies with the following precautions: (1) Before the start of spraying operations, all floor areas shall be shoveled clean. Before the application of insulating material commences, the floor of the areas shall be cleared of all objects, material and equipment other than that employed in the application of the insulating material, or all objects, material, and equipment shall be covered with plastic or other approved tarpaulins in a manner that precludes the subsequent dispersal of particulate matter.

(2) The entire floor, or the part of the floor to be insulated, shall be enclosed with plastic or other approved tarpaulins in a manner which shall preclude the escape of particulate matter from the enclosure. All interior open areas, such as elevator shafts and stairwells shall be enclosed in a manner which shall prevent the escape of particulate matter from the working area.

Stack effect of the shafts and stairwells shall be considered in providing proper enclosures. An enclosure will be considered satisfactory only if visible insulating material cannot escape from the enclosure.

(3) Wet insulating material which has fallen to the floor shall be swept up to prevent dispersal of dried material. Under no condition shall this material be removed later than at the end of the working day. Swept-up material shall be placed in a heavy plastic bag strong enough to resist tearing or breaking under normal handling conditions and clearly marked as containing insulating material waste. The contents of the aforementioned plastic bags shall not be transferred to another container. The plastic bags shall be placed upon a vehicle for disposal at a site approved by the commissioner.

(4) All floors shall be vacuumed shortly after drying. The contents of the vacuum bag shall be carefully placed in a container of the type described in paragraph three of this subdivision and shall thereafter be placed on a vehicle for removal and disposal at a site approved by the commissioner.

(5) The materials used to form the enclosure shall be thoroughly vacuumed upon completion of the application of the insulation in the area. The entire floor area and ledges and surfaces including tarpaulins upon which waste insulation material may have fallen, shall then be vacuumed or revacuumed before removal of the enclosures.

(6) Enclosures shall not be dismantled until the area has been thoroughly vacuumed after completion of spraying and clean-up.

(7) All areas used for opening bags containing insulating material and/or changing of hoppers shall be enclosed in such a manner that insulating material shall not be permitted to escape from the immediate area in which such activity takes place.

(8) Signs shall be posted outside enclosures warning persons of the hazards of entering the enclosure without appropriate apparel.

(9) All persons involved in the spraying of insulating material at the site must be furnished with suitable coveralls which must be left at the site. No person shall be permitted in an area in which spraying or handling of insulating material has taken place until the final vacuuming referred to in paragraph five of this subdivision has been accomplished, unless such person is furnished with or wears coveralls of the type described herein. Facilities shall be provided and procedures instituted and supervised that preclude the removal and dispersal of insulating material from the construction site on the clothing or other appurtenances of persons leaving the area.

(10) Any plenum or other structures coated with insulating material which are intended for use in circulation of air in the building must be thoroughly cleaned of all debris, dust and waste insulation. All applied insulation material within a plenum or duct must be coated with a sealant approved by the commissioner which precludes exposure of the material to the circulating air whenever the commissioner after ordering tests to be conducted by the manufacturer in accordance with section 24-107, determines that the insulation material needs such a sealant.

(11) A person shall be assigned the full time responsibility of supervising the spraying and related operations to assure that no insulating material is released from the construction site.

(12) In case of emission of insulation material from the construction site, immediate steps shall be taken to cause the cessation of such emissions by either effective control measures or work stoppage at the source of the emissions. There shall then be immediate and complete clean-up of all material that has escaped the construction site by measures that will insure that no further dispersal of any insulating material into the atmosphere can occur.

(f) No person shall cause or permit a building or other structure to be demolished, except pursuant to chapter one of title seventeen or article eight of subchapter three of chapter one of title twenty-six of the code, unless he or she complies with the following precautions:

(1) Demolition by toppling of walls shall not occur except when approved by the commissioner.

(2) Before the demolition of any section of wall, floor, roof, or other structure, adequate wetting procedures to lay the dust shall be employed. All debris shall be thoroughly wetted before loading and while dumping into trucks, other vehicles or containers. In all cases and at all stages of demolition, wetting procedures shall be adequate to lay the dust. Trucks shall be adequately covered or enclosed to prevent dust dispersion while in transit to point of disposal.

(3) No structural members shall be dropped or thrown from any floor but shall be carefully lowered to ground level by hoists.

(4) Effective January first, nineteen hundred seventy-two, debris shall not be dropped or thrown from any floor to any floor below. In buildings twelve stories or greater in height debris shall be transported from the upper floors via enclosed, dust-tight chutes or via buckets. Where chutes are used, a water soaking spray shall be employed to saturate the debris before it reaches the point of discharge from the chute. Where buckets are used, the debris shall be adequately wetted to preclude dust dispersion when buckets are dumped.

(5) Effective January first, nineteen hundred seventy-two, in the event particulate matter becomes airborne for a continuous period of fifteen minutes, despite the application of the above procedures, or because freezing temperatures preclude the use of water for laying the demolition dust, the work of demolition shall cease at once until other adequate measures can be taken. Alternate procedures shall be evaluated by the commissioner before initiation thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.11 added LL 49/1971 § 1

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NYC Administrative Code 24-146.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-146.1 Asbestos work.

(a) For purposes of this section, the following terms shall have the following meanings:

(1) "Asbestos" shall mean any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

(2) "Asbestos inspection report" shall mean a report on the condition of a building or structure in relation to the presence and condition of asbestos therein.

(3) "Asbestos investigator" shall mean an individual certified by the commissioner as having satisfactorily demonstrated his or her ability to identify the presence and evaluate the condition of asbestos in a building or structure.

(4) "Asbestos containing material" shall mean asbestos or any material containing more than one percent asbestos by weight.

(5) "Asbestos removal plan" shall mean a plan which will be undertaken so as to prevent asbestos from becoming airborne in the course of an asbestos project as defined in this subdivision.

(6) "Asbestos handling certificate" shall mean a certificate issued to a person who has satisfactorily completed

an approved asbestos safety and health program.

(7) "Approved safety and health program" shall mean a program certified by the commissioner providing training in the handling and use of asbestos containing material, and safety and health risks inherent in such handling and use, together with methods for minimizing the exposure of workers and the public to asbestos fibers and, instruction in all applicable federal, state and local laws and regulations pertaining to asbestos related work.

(8) "Asbestos project" shall mean any form of work performed in connection with the alteration, renovation, modification, or demolition of a building or structure, as defined in section 27-232 of this code, or in connection with the replacement or repair of equipment, pipes, or electrical equipment not located in a building or structure, which will disturb more than two hundred sixty linear feet or more than one hundred sixty square feet of friable asbestos containing material or such smaller amounts as the commissioner may establish by regulation.

(9) "Friable asbestos material" shall mean any asbestos or any asbestos containing material that can be crumbled, pulverized or reduced to powder when dry, by hand pressure.

(10) "AHERA" shall mean the asbestos hazard emergency response act of nineteen hundred eighty-six, as amended (15 U.S.C. section 641, et seq.).

(b) (1) It shall be unlawful for any individual to handle friable asbestos material in the course of performing work for compensation on an asbestos project unless such individual is a holder of a current, valid asbestos handling certificate.

(2) It shall be unlawful to employ or otherwise permit any individual to handle friable asbestos material on an asbestos project when such person is not a holder of a current, valid asbestos handling certificate.

(c) The commissioner shall promulgate regulations establishing procedures for the safeguarding of the health and safety of the public and all persons who work at or in the vicinity of an asbestos project.

(d) (1) The commissioner shall promulgate regulations establishing criteria for certifying individuals as eligible to receive an asbestos handling certificate and for certifying programs as approved safety and health programs. The commissioner may restrict the asbestos handling certificate as to certain supervisory and nonsupervisory functions and responsibilities.

(2) The commissioner shall promulgate regulations establishing criteria for certifying individuals as asbestos investigators.

(3) Any certificate issued under this subdivision shall be valid for a period of two years unless sooner suspended or revoked and may be renewed for a period of two years upon submission of proof satisfactory to the commissioner that the individual continues to meet the criteria established pursuant to this subdivision.

(4) The initial certification of safety and health programs established pursuant to this section shall expire six months after the date of such certification. Safety and health program certificates may be renewed upon presentation to the commissioner of evidence satisfactory to the commissioner that the program continues to satisfy the criteria established for such safety and health programs. Such renewal shall be valid for a period of one year unless suspended or revoked before such time. The application to renew a certificate shall be submitted with the appropriate renewal fee thirty days prior to expiration of such certificate.

(5) The commissioner, after providing notice and an opportunity to be heard, may suspend or revoke any certificate issued under this subdivision where it is found that the holder has failed to comply with this section or any rules or regulations promulgated thereunder.

(6) The commissioner shall charge a fee not to exceed one hundred dollars to process the application to issue or renew an asbestos handling certificate and a fee not to exceed two hundred fifty dollars to process the application of an individual as an asbestos investigator.

(7) The commissioner may suspend the processing of applications for certification of individuals as asbestos handlers, investigators, planners, designers, and other titles for which training requirements are specified by AHERA, and the certification of safety and health programs when the commissioner determines that regulations promulgated pursuant to article thirty of the labor law for the certification of such individuals and for the certification of safety and health programs are essentially equivalent to regulations promulgated by the commissioner, and that such certifications are in fact being issued.

(e) (1) a. The commissioner shall prescribe forms for and the content of asbestos inspection reports to be submitted in accordance with the provisions of subdivisions a, b or c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code. Such reports shall require the furnishing of information deemed relevant by the commissioner for evaluating, in the case of an asbestos project, the scope, complexity and duration of such project, or if not an asbestos project, information deemed relevant by the commissioner for evaluating the samples taken and the validity of sampling techniques utilized in preparing such inspection report, and the compliance with the provisions of this section, any regulations promulgated thereunder, and any applicable federal and or state laws or regulations.

b. An asbestos inspection report regarding an asbestos project, where the work to be performed will cause the generation of waste which is asbestos containing material, shall include: (i) the amount of such waste which will be generated; (ii) the name of the person who will remove the waste and the number of the industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and (iii) the site at which such waste will be disposed of.

c. If at the time the asbestos inspection report for an asbestos project is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended report shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such report less than five days prior to the time such waste is transported.

d. Copies of all asbestos inspection reports received by or filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2) The commissioner may by regulation also require for any work which is not subject to the provisions of subdivision a of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and for which a permit is required under article nine of subchapter one of chapter one of such title that an asbestos investigator certify that the work to be performed will not constitute an asbestos project or that an asbestos inspection report be completed and submitted to the department of buildings in conjunction with an application for such permit. The commissioner may exclude from any regulation promulgated pursuant to this paragraph certain types of work within a permit category.

(f) (1) a. The commissioner shall promulgate regulations establishing the requirements of an asbestos removal plan to be submitted in accordance with the provisions of subdivision c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and shall specify the type or types of demolition or alteration work for which such submission shall be required. Plans submitted shall be approved by the commissioner only upon a satisfactory showing that such plan will effect compliance with all applicable provisions of this section,

regulations promulgated thereunder, all applicable federal or state laws or regulations and, in addition, that to the extent feasible, the removal of asbestos will be completed prior to the commencement of any demolition work. No plan shall be considered for approval unless accompanied by the payment of a fee established by the commissioner not to exceed eighteen hundred dollars.

b. Such plan, where the work to be performed will cause the generation of waste which is asbestos containing material, shall include: (i) the amount of such waste which will be generated; (ii) the name of the person who will remove the waste and the number of industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and (iii) the site at which such waste will be disposed of.

c. If at the time asbestos removal plan is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended plan shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such amended plan less than five days prior to the time such waste is transported.

d. Copies of all asbestos removal plans filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2) The commissioner shall act within a reasonable time not to exceed sixty days on an application for approval of an asbestos removal plan, and shall notify the applicant in writing of his or her approval or disapproval of the application. If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval. Within sixty days after service on the applicant of the notice of disapproval, the applicant may request the commissioner to reconsider the application by responding in writing to the stated objections. The commissioner shall consider the applicant's responses to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to respond to the stated objections or request an extension of time within sixty days after service of the notice of disapproval shall be deemed a denial of the application.

(g) The commissioner may promulgate any regulations he or she deems necessary to protect the health and safety of workers and the public in connection with work not constituting an asbestos project in which asbestos is or is likely to be disturbed.

(h) A notice or order to stop work may be issued by the commissioner, or his or her authorized representative, at any time when it is found that work is being performed in violation of the provisions of this section, or any rules or regulations promulgated thereunder and which poses a threat to human safety. Such notice or order may be given orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons performing the work and may require all persons in or about the building or premises to vacate the same forthwith, and also require such work to be done as, in the opinion of the commissioner, may be necessary to remove the danger therefrom. Such notice or order shall be valid for a period of time not to exceed seventy-two hours and may be extended only upon application to the board in accordance with the provisions of section 24-178 of this code.

(i) The commissioner may grant individual variances for asbestos projects at specific sites, from particular requirements related to asbestos prescribed by this code and regulations or orders of the commissioner promulgated thereunder, whenever it is found, upon presentation of adequate proof, that compliance with such requirements would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require and shall publish in the City Record no later than seven days after the granting of such variance a statement of the reasons leading to his or her decision.

(j) The commissioner may establish a fee to process the applications listed in this subdivision as follows:

(1) For any asbestos project not requiring a permit or plan approval issued by the department of buildings and for which an asbestos inspection report or asbestos removal plan is required by this section and by regulations promulgated pursuant thereto to be filed with the commissioner, the commissioner shall be entitled to charge a fee not to exceed twelve hundred dollars for the asbestos inspection report or eighteen hundred dollars for the asbestos removal plan.

(2) To process an application for a variance submitted in accordance with subdivision (j) of this section, the department shall be entitled to charge a fee as established by the commissioner not to exceed eighteen hundred dollars.

(3) The commissioner may establish a fee not to exceed the following amounts for processing applications for the certification or renewal of certification of safety and health programs established pursuant to this section:

PROGRAM	FEE PER PROGRAM
Asbestos Handler	$1500.00
Asbestos Supervisor	$ 300.00
Asbestos Investigator	$ 750.00
Biennial Review Course	$ 500.00
Refresher Course	$ 300.00

(k) The commissioner may promulgate any additional regulations he or she deems necessary to effectuate the purposes of this section.

(l) The commissioner shall promulgate regulations requiring asbestos investigators to submit on a timely basis to the commissioner the results of any asbestos survey or investigation for asbestos conducted in accordance with this section and with regulations promulgated pursuant thereto if, during or as a result of such asbestos survey or investigation, the asbestos investigator discovers asbestos containing material. The commissioner may require the submission of the asbestos investigator's findings whether or not an asbestos project is planned or scheduled.

(m) (1) In addition to submission of the asbestos inspection report or asbestos removal plan, the commissioner may by regulation require additional notification to the department prior to the start of the asbestos project. No person shall cause or permit any abatement of asbestos containing material without compliance with any such additional notification requirements.

(2) Except as specified in subparagraph c of paragraph one of subdivision (e) and subparagraph c of paragraph one of subdivision (f) of this section, the commissioner may prescribe by regulation the circumstances under which an asbestos inspection report or asbestos removal plan may be amended, and the circumstances under which a new asbestos inspection report or asbestos removal plan shall be submitted to the department. The commissioner may consider the extent of the proposed amendment, including but not limited to change in floor size, quantity of asbestos containing material involved, project phasing, project duration, and replacement of abatement contractor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section added L.L. 76/1985 § 7, see note after § 27-198.1

Subd. (a) pars. (5), (8) amended L.L. 101/1989 § 1

Subd. (a) par. (10) added L.L. 101/1989 § 1

Subd. (d) amended L.L. 46/1988 § 1

Subd. (d) par. (6) amended L.L. 101/1989 § 3

Subd. (d) par. (7) added L.L. 101/1989 § 2

Subd. (e) par. 1 amended L.L. 21/1987 § 4

Subd. (e) subpar. a amended L.L. 55/1991 § 1, eff. July 17, 1991

Subd. (e) subpar. a amended L.L. 46/1988 § 2

Subd. (e) subpars. b, c amended L.L. 55/91 § 1, eff. July 17, 1991

Subd. (e) par. 2 amended L.L. 46/1988 § 3

Subd. (f) par. 1 amended L.L. 21/1987 § 5

Subd. (f) par. 1 subpar. a amended L.L. 46/1988 § 4

Subd. (f) par. 2 amended L.L. 46/1988 § 5

Subd. (h) amended L.L. 46/1988 § 6

Subds. (i), (j) added L.L. 46/1988 § 7

Subd. (k) relettered L.L. 46/1988 § 7

(formerly subd. (i))

Subds. (l), (m) added L.L. 101/1989 § 4

DERIVATION

Formerly § 1403.2-9.12 added LL 76/1985 § 7

(Report, LL 76/1985 § 9)

(LL 76/1985 § 9 amended LL 80/1986 § 1)

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Administrative Code of the City of New York

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NYC Administrative Code 24-146.2

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-146.2 Enforcement of the labor law.

Pursuant to subdivision two of section nine hundred ten of the labor law, the commissioner shall have all the powers and responsibility of the commissioner of labor in enforcing the provisions of article thirty of the labor law and the rules and regulations adopted thereunder; provided, however, that the civil penalties authorized pursuant to subdivisions one and two of section nine hundred nine of such law shall be imposed by the environmental control board after a hearing in accordance with the rules of the board.

HISTORICAL NOTE

Section added L.L. 101/1989 § 5.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-147

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-147 Emission of nitrogen oxides.

No person shall cause or permit emission of an air contaminant:

(a) from a boiler with a capacity of five hundred million Btu per hour or more and completed after August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred parts per million by volume of undiluted emissions at ten percent excess air.

(b) from a boiler with a capacity of five hundred million Btu per hour or more and completed before August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred fifty parts per million by volume of undiluted emissions at ten percent excess air.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.13 added LL 49/1971 § 1

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NYC Administrative Code 24-148

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-148 Architectural coatings; solvents.

(a) After July first, nineteen hundred seventy-two, no person shall sell, offer for sale, apply, evaporate, dry, dilute or thin any architectural coating containing a photochemically reactive solvent.

(b) For the purposes of this section, a photochemically reactive solvent is any solvent with an aggregate of more than twenty percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic type of unsaturation: five percent;

2. A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: eight percent;

3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, or toluene: twenty percent.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.15 added LL 49/1971 § 1

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NYC Administrative Code 24-149

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-149 Open fires prohibited; exceptions.

No person shall cause or permit the kindling, maintenance or use of any open fire so as to cause the emission of an air contaminant into the open air, except as provided herein:

a. Where such fires are allowed by any other law, rule or regulation, outdoor residential picnic and barbecue fires in equipment with a total grate area not exceeding ten square feet and designed to utilize charcoal, or equipped with gas burners;

b. outdoor noncommercial barbecue and picnic fires in equipment provided by and located in city parks where such fires are permitted by the appropriate government agency;

c. official fires used for the training of fire brigades or similar purposes by persons or corporations requiring such training, but only with the approval of the commissioner and the fire commissioner;

d. outdoor fires used in conjunction with tar kettles, coke salamanders, asphalt and snow melting equipment and open natural gas fired infrared heaters of capacity less than one hundred fifty thousand BTU/hr;

e. fires used for special effects for the purpose of television, motion picture, theatrical and for other entertainment productions, but only with the approval of the fire commissioner and the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.17 added LL 49/1971 § 1

Amended LL 30/1974 § 2

(§ number and heading omitted)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-150

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-150 Smoking prohibited.

It shall be unlawful for any person to smoke or carry a lighted cigar, cigarette, pipe or match, or to use any spark, flame or fire-producing device which has not been authorized for use by the commissioner, in any passenger elevator regulated pursuant to subchapter eighteen of chapter one of title twenty-seven of the code. Each elevator car and each entrance thereto shall contain a sign directing that smoking or carrying a lighted cigar, cigarette, pipe or match, or using any spark, flame, or fire-producing device which has not been authorized for use by the commissioner of buildings, is prohibited therein. Such sign shall be conspicuously posted and shall be designed in such form as the commissioner shall determine. Any violation of this section shall be punished by a fine of not more than fifty dollars or by imprisonment not exceeding fifteen days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.18 added LL 35/1974 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-151

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-151 Emission of air contaminant; concealment and masking restricted.

(a) No person shall cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of the air contaminant which would otherwise violate subchapter six of this code.

(b) No person shall cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes or may cause detriment to the health, safety or welfare of any person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.19 added LL 49/1971 § 1

NYC Administrative Code 24-152

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-152 Malfunctions, breakdowns, and removal from service; emergency action plan.

(a) If any control apparatus required by this code is or will be inoperative for more than six hours, the commissioner shall be provided with a repair and resumption schedule for his or her approval by the owner of the equipment.

(b) Whenever the emission of an air contaminant, which emission constitutes a violation of any provision of this code, occurs as a result of, malfunction, breakdown or removal from service of equipment or apparatus, the owner of the equipment from which the emission of an air contaminant occurs shall report the emission of the air contaminant and its attendant circumstances to the commissioner not later than thirty minutes from its discovery. The report shall be confirmed in writing, in a form prescribed by the commissioner not later than three days thereafter.

(c) An owner of such equipment shall not continue it in operation during any malfunction, breakdown, or shutdown of the equipment or of the apparatus which serves the equipment, except with the express permission of the commissioner. Such permission shall be given only as may be necessary to protect the public health and safety. This subdivision shall not apply where the emission of air contaminant is of a type or within the limits permitted by this code.

(d) This section shall not apply to refuse burning equipment, refuse compacting equipment and fuel burning equipment which primarily serve residents of a building or structure which is occupied in whole or in part as the

residence of one or more persons, or which is occupied for transacting business, for rendering professional services, for rendering public or civic services, or for performing other commercial services that may incidentally involve the storage of limited quantities of stocks of goods for office use or purposes.

(e) Whenever the commissioner shall determine that equipment, for which a certificate of operation is required by this code, may emit or be capable of emitting dangerous or odorous air contaminants, either as a result of a malfunction or breakdown of such equipment or as a result of a malfunction or breakdown of the apparatus which serves such equipment, the commissioner may require the owner of such equipment to file with the department an acceptable emergency action plan. The emergency action plan shall detail all activity that will be taken to prevent or control emissions resulting from a malfunction or breakdown.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.21 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-154

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 6 EMISSION STANDARDS

§ 24-154 Environmental ratings; applications and appeals.

(a) The commissioner may require any owner of equipment to provide pertinent data data concerning emissions so as to show compliance with the requirements of section 24-153 of this code.

(b) When required by the commissioner, the owner of equipment in operation before August twenty-fifth, nineteen hundred seventy-one shall submit a detailed environmental rating report which shall include emission data, pertinent environmental factors and a proposed environmental rating showing either conformity with the requirements of section 24-153 of this code or proposed corrective measures. If this report is acceptable, the commissioner will so notify the person operating or maintaining the equipment. If the report is not acceptable to the department, the commissioner shall notify the applicant as to the reason therefor, together with an environmental rating that is acceptable and a time schedule for compliance. Upon petition to the commissioner within thirty days of such notice, the commissioner shall grant a hearing to such petitioner on the issue of an appropriate environmental rating.

(c) Persons beginning or modifying operations after August twenty-fifth, nineteen hundred seventy-one shall submit to the commissioner or his or her representative, either prior to or concurrently with submission of applications for a permit or registration, a detailed report, including emission data, pertinent environmental factors and the proposed environmental rating to be used for design purposes.

(d) Environmental rating reports concerning equipment for which the submission of an application for a permit

or operating certificate is required shall be professionally certified.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-9.25 added LL 49/1971 § 1

Amended LL 55/1980 § 13

NYC Administrative Code 24-155

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-155 Maintenance of equipment and apparatus.

The owner of equipment and apparatus shall maintain such equipment and apparatus in good operating order by regular inspection and cleaning and by promptly making repairs.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.01 added LL 49/1971 § 1

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NYC Administrative Code 24-156

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-156 Use of equipment without using apparatus prohibited.

(a) Except as provided in subdivision (b) of this section, no person shall cause or permit the use of equipment which is fitted with apparatus, other than experimental apparatus, unless the required apparatus is used.

(b) If equipment is fitted with apparatus and is designed to use more than one kind of fuel, the equipment shall not be used unless the apparatus appropriate for the particular fuel is used.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.03 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-157

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-157 Use of fuel burning equipment using bituminous coal without control apparatus prohibited. [

Repealed]

DERIVATION

Formerly § 1403.2-11.05 added LL 49/1971 § 1

Repealed LL 93/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-158

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-158 Use of department of sanitation refuse burning equipment without control apparatus prohibited.

(a) No person shall cause or permit the use of any incinerator operated by the department of sanitation unless there shall be installed therein control apparatus which incorporates the most effective advances in the art of air pollution control as determined by the commissioner but in no event shall the emissions exceed those specified in figure four of section 24-145 of this code.

(b) The commissioner shall submit a report to the city council on the first day of October and on the first day of April of each year setting forth in detail the extent of compliance with subdivision (a) of this section, the cause of whatever non-compliance may exist and what action is being undertaken to assure compliance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1103..2-11.07 added LL 49/1971 § 1

Administrative Code of the City of New York

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NYC Administrative Code 24-159

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-159 Use of less than fully automatic equipment using fuel oil and use of any fuel burning equipment using residual fuel oil; supervision by licensed person.

No person shall cause or permit the use of fuel burning equipment which uses fuel oil and is less than fully automatic, or the use of fuel burning equipment, whether fully automatic or not, which uses residual fuel oil, except under the direct supervision of a person having a certificate of fitness as required by section 27-4014 of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.09 added LL 49/1971 § 1

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NYC Administrative Code 24-160

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-160 Use of air contaminant recorder; boilers.

No owner of a boiler with a capacity of five hundred million Btu per hour or more shall operate it without the installation and operation of an air contaminant recorder.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.10 added LL 49/1971 § 1

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NYC Administrative Code 24-161

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-161 Use of fuel burning equipment using residual fuel oil and use of refuse burning equipment; operation and supervision by trained person.

(a) No person shall cause or permit the use of fuel burning equipment using residual fuel oil, or of refuse burning equipment, except under the operation and supervision of a person who has successfully completed a course of instruction in air pollution control approved by the commissioner or completes such course within six months of his or her employment. For good cause shown, the department may temporarily exempt persons from this requirement.

(b) The commissioner may approve courses of instruction maintained by educational institutions, by industry, or by labor organ- izations.

(c) No person shall employ an operator or supervisor of fuel burning equipment using residual fuel oil or of refuse burning equipment who does not have an enrollment card or certificate issued by the department.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.11 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-162

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-162 Operation of refuse burning equipment, other than municipal; time restriction.

(a) No person shall cause or permit the operation of refuse burning equipment, other than refuse burning equipment operated by the department of sanitation, at any time other than between seven a.m. and five p.m., of the same day, except with the approval of the commissioner.

(b) The person seeking approval to operate refuse burning equipment at a time other than that specified under subdivision (a) of this section shall submit a written request in such form as prescribed by the commissioner.

(c) No person shall cause or permit the resumption of use of refuse burning equipment for which permission has been given for the discontinuance of operation or for which an order of discontinuance has been issued, unless permitted to do so by the commis- sioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.13 added LL 49/1971 § 1

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NYC Administrative Code 24-163

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163 Operation of motor vehicle; idling of engine restricted.

(a) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route.

(b) The department of transportation shall post signs relating to prohibited idling that shall comply with the standards set forth in the Manual on Uniform Traffic Control Devices and, where practicable, include the maximum penalty that may be imposed for a violation of subdivision a of this section as follows:

(1) a sign shall be posted at each exit within the city of New York of each bridge and tunnel having only one terminus in the city of New York; (2) signs shall be posted at a minimum of five locations in each borough where two or more truck routes, whether local or through routes, intersect; (3) a sign shall be posted at each bus layover area (other than school bus layover areas), designated by the commissioner of transportation pursuant to section 4-10(c)(3) of title 34 of the rules of the city of New York; (4) a sign shall be posted at each multiple use bus terminal

point; (5) a sign shall be posted in close proximity to each school bus depot; and,

(6) signs shall be posted at other appropriate locations throughout the city as jointly determined by the commissioner and the commissioner of transportation, including but not limited to, locations for which the city receives a substantial number of complaints of idling motor vehicles.

(c) For the purpose of this section only the term "school bus depot" shall mean any garage, lot or other facility where buses that transport children to or from schools are parked over night and the term "multiple use bus terminal point" shall mean a location that is both a terminal point of at least one bus route (other than a school bus route) and a bus stop (other than a school bus stop) on one or more other bus routes.

(d) In any proceeding relating to a violation of the restrictions on idling it shall not be a defense that a sign required by this section was absent at the time of the violation.

(e) In addition to the department and the police department, the department of parks and recreation and the department of sanitation shall have the authority to enforce subdivision a of this section and shall have the power to issues summonses, appearance tickets and/or notices of violation for violations of such subdivision.

(f) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred.

(g) A report shall be submitted to the city council on an annual basis by: (1) the environmental control board that states the number of notices of violation issued for engine idling violations returnable to the environmental control board, including the total amount of penalties imposed for such notices of violations; and (2) the department of finance that states the number of summonses issued for engine idling violations pursuant to subdivision (p) of section 4-08 of title 34 of the rules of the city of New York, including the total amount of penalties imposed for such summonses.

HISTORICAL NOTE

Section amended L.L. 25/2004 § 2, eff. Dec. 24, 2004.

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 5/2009 § 1, eff. May 11, 2009.

Subd. (e) added L.L. 4/2009 § 1, eff. May 11, 2009.

Subd. (f) added L.L. 5/2009 § 2, eff. May 11, 2009.

Subd. (g) added L.L. 5/2009 § 2, eff. May 11, 2009.

DERIVATION

Formerly § 1403.2-11.15 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.1 Purchase of cleaner light-duty and medium-duty vehicles.

a. Definitions. When used in this section or in section 24-163.2 of this chapter:

(1) "Alternative fuel" means natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel which is at least eighty-five percent, singly or in combination, methanol, ethanol, any other alcohol or ether.

(2) "Alternative fuel motor vehicle" means a motor vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Average fuel economy" means the sum of the fuel economies of all motor vehicles in a defined group divided by the number of motor vehicles in such group.

(4) "Bi-fuel motor vehicle" means a motor vehicle that is capable of being operated by both an alternative fuel and gasoline or diesel fuel, but may be operated exclusively by any one of such fuels.

(5) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(6) "Equivalent carbon dioxide" means the metric measure used to compare the emissions from various greenhouse gases emitted by motor vehicles based upon their global warming potential according to the California air resources board or the United States environmental protection agency.

(7) "Fuel economy" means the United States environmental protection agency city mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title 49 of the United States code.

(8) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(9) "Light-duty vehicle" means any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.

(10) "Medium-duty vehicle" means any motor vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

(11) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department, fire department or department of correction.

(12) "Purchase" means purchase, lease, borrow, obtain by gift or otherwise acquire.

b. (1) Except as provided for in paragraphs two and three of this subdivision, beginning July 1, 2006, each light-duty vehicle and medium-duty vehicle that the city purchases shall achieve the highest of the following ratings, with subparagraph one of this paragraph being the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards and available within the applicable model year for a light-duty vehicle or medium-duty vehicle that meets the requirements for the intended use by the city of such vehicle:

(i) zero emission vehicle (ZEV)

(ii) advanced technology partial zero emission vehicle (ATPZEV)

(iii) partial zero emission vehicle (PZEV)

(iv) super ultra low emission vehicle (SULEV)

(v) ultra low emission vehicle (ULEV)

(vi) low emission vehicle (LEV)

(2) The city shall not be required to purchase a zero emission vehicle or advanced technology partial zero emission vehicle in accordance with paragraph one of this subdivision if the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent more than the lowest bid as determined by the applicable procurement process for a vehicle available in the next highest rating category that meets the requirements for the intended use by the city of such vehicle.

(3) Notwithstanding the requirements of paragraph one of this subdivision, such requirements need not apply to a maximum of five percent of the light-duty vehicles and medium-duty vehicles purchased within each fiscal year.

(4) For the fiscal year beginning July 1, 2005, at least eighty percent of the light-duty vehicles the city purchases in such fiscal year shall be alternative fuel motor vehicles.

c. (1) The city shall not purchase additional bi-fuel motor vehicles.

(2) Any bi-fuel motor vehicle that is owned or operated by the city shall be powered on the alternative fuel on which it is capable of operating, except that such vehicle may be operated on gasoline or diesel fuel (i) where, as of the date of enactment of this section, such vehicle is no longer mechanically able to operate on such alternative fuel and cannot be repaired, or (ii) solely for the period of time recommended by the vehicle manufacturer.

d. (1) Not later than October 1, 2005, the city shall complete an inventory of the fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, and shall calculate the average fuel economy of all such light-duty vehicles.

(2) The city shall achieve the following minimum percentage increases in the average fuel economy of all light-duty vehicles purchased by the city during the following fiscal years, relative to the average fuel economy of all such vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of this subdivision:

(i) For the fiscal year beginning July 1, 2006, five percent;

(ii) For the fiscal year beginning July 1, 2007, eight percent;

(iii) For the fiscal year beginning July 1, 2008, ten percent;

(iv) For the fiscal year beginning July 1, 2009, twelve percent;

(v) For the fiscal years beginning July 1, 2010 and July 1, 2011, fifteen percent;

(vi) For the fiscal years beginning July 1, 2012, July 1, 2013 and July 1, 2014, eighteen percent; and

(vii) For the fiscal year beginning July 1, 2015, and for each fiscal year thereafter, twenty percent.

e. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of light-duty vehicles and medium-duty vehicles during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to, for each city agency: (i) the total number of light-duty vehicles and medium-duty vehicles and all other motor vehicles, respectively, purchased by such agency; (ii) the total number of light-duty vehicles and medium-duty vehicles, respectively, purchased by such agency that are certified to California LEV II standards in each of the six rating categories listed in subdivision b of this section, disaggregated according to vehicle model; (iii) the reason as to why each vehicle model was purchased, rather than a vehicle model rated in a higher category listed in subdivision b of this section; (iv) if an available zero emission vehicle or advanced technology partial zero emission vehicle is not purchased, in accordance with paragraph two of subdivision b of this section, specific information regarding the cost analysis that formed the basis for such decision; (v) the percentage of light-duty vehicles and medium-duty vehicles purchased within each fiscal year in accordance with paragraphs one and two of subdivision b of this section; and (vi) for the report required not later than January 1, 2007, the percentage of light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2005 that were alternative fuel motor vehicles.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the fuel economy of light-duty vehicles purchased by the city during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the average fuel economy of all light-duty vehicles purchased by the city during the preceding fiscal year; and (ii) the percentage increase in the average fuel economy of all such light-duty vehicles,

relative to the average fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of subdivision d of this section, that this total amount represents.

f. (1) Beginning July 1, 2006, for each fiscal year, the city shall measure the amount of fuel consumed by the city's fleet of motor vehicles and the equivalent carbon dioxide emitted by such vehicles, for each type of fuel consumed by such vehicles.

(2) For the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, the department shall publish on its website by October 1 following the close of each fiscal year and the mayor shall include in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year the estimated total amount of fuel consumed by the city's fleet of motor vehicles and the estimated total amount of equivalent carbon dioxide emitted by such vehicles, disaggregated according to fuel type. For the purposes of this subdivision, the city's fleet of motor vehicles shall include vehicles specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; or

(3) except for subdivision f of this section, to diesel fuel-powered motor vehicles subject to paragraph two of subdivision b of section 24-163.4 of this chapter.

h. To the extent not prohibited by law, alternative fuel motor vehicles may be purchased by the city in concert with any public or private entity.

HISTORICAL NOTE

Section repealed and added L.L. 38/2005 § 1, eff. Aug. 9, 2005. [See

Note 1]

Section added L.L. 6/1991 § 1, eff. Jan. 24, 1991

Subd. a par (11) amended L.L. 21/2006 § 1, eff. June 19, 2006.

Subd. b amended L.L. 59/1996 § 85, eff. Aug. 8, 1996

Subd. c par 4 amended L.L. 59/1996 § 85, eff. Aug. 8, 1996

Subd. c par 5 amended L.L. 59/1996 § 86, eff. Aug. 8, 1996

Subd. d par (2) amended L.L. 130/2005 § 1, eff. Dec. 29, 2005.

Subd. g amended L.L. 130/2005 § 2, eff. Dec. 29, 2005.

NOTE

1. Provisions of L.L. 38/2005:

§ 3. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this

law, which remaining portions shall continue in full force and effect.

§ 4. This local law shall take effect four months after its enactment, except that the commissioner of environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.2

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.2 Alternative fuel buses and sanitation vehicles.

a. Definitions. When used in this section:

(1) "Alternative fuel bus" means a bus that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(2) "Alternative fuel sanitation vehicle" means a sanitation vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Alternative fuel street sweeping vehicle" means a vehicle used by the department of sanitation for street cleaning purposes that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(4) "Bus" means a motor vehicle that is designed to transport more than twenty individuals.

(5) "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

(6) "Sanitation vehicle" means a vehicle used by the department of sanitation for street cleaning purposes or for the collection of solid waste or recyclable materials.

(7) "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

b. For the fiscal year commencing July 1, 2005, and for each fiscal year thereafter, at least twenty percent of the buses the city purchases in such fiscal year shall be alternative fuel buses.

c. (1) Beginning no later than March 1, 2006, the commissioner of sanitation shall implement a program for testing the mechanical reliability and operational feasibility of alternative fuel street sweeping vehicles. Such program shall include a pilot project regarding the exclusive utilization of alternative fuel street sweeping vehicles in at least four sanitation districts, to be identified at the discretion of the commissioner of sanitation. At least one such district shall be located in an area where high rates of asthma are found and the commissioner shall consider asthma rates in his or her determination of where such other districts will be located.

(2) The department of sanitation shall collect and analyze data to further develop its initiatives for and assess the feasibility of incorporating new alternative fuel sanitation vehicles and technology into its fleet.

d. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of alternative fuel buses during the immediately preceding fiscal year. This report shall be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the total number of buses purchased by the city in the preceding fiscal year; (ii) the number of such buses that are alternative fuel buses, disaggregated according to agency, bus model and type of alternative fuel used; and (iii)*31 the determination, if any, by the commissioner of correction that there were no alternative fuel buses available that met such department's needs pertaining to bus size, passenger capacity and security during the preceding fiscal year and the detailed analysis that formed the basis for such determination, and, where the department of correction has not purchased an alternative fuel bus due to cost, as provided for in paragraph three of subdivision g of this section, the detailed cost analysis that formed the basis for such decision.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner of sanitation shall report to the mayor, the comptroller and the speaker of the council on the department of sanitation's alternative fuel street sweeping vehicle pilot project and all testing, analyses and assessments completed pursuant to subdivision c of this section. Such report shall include, but not be limited to: (i) a description of all testing, analyses and assessments, respectively, completed pursuant to that subdivision and all conclusions based upon such testing, analyses and assessments, including specific information regarding efforts made by the department of sanitation to further develop initiatives for the incorporation of alternative fuel sanitation vehicles into its fleet, in addition to specific information regarding the feasibility of incorporating such vehicles into such fleet; (ii) the number of alternative fuel street sweeping vehicles included in the pilot project required pursuant to paragraph one of that subdivision, the districts where such vehicles are located and the type of alternative fuel used by such vehicles; and, (iii) the total number of alternative fuel sanitation vehicles owned or operated by the department of sanitation, disaggregated according to vehicle model and type of alternative fuel used.

e. Purchases of alternative fuel buses that exceed the minimum mandatory purchase requirements of subdivision b of this section for a particular fiscal year may be used to satisfy such applicable requirements for the immediately succeeding fiscal year.

f. To the extent not prohibited by law, alternative fuel buses and alternative fuel sanitation vehicles may be purchased by the city in concert with any public or private entity.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; or

(3)* to32 purchases of buses for use by the department of correction where the commissioner of correction has made a written determination that there are no alternative fuel buses available that meet such department's needs pertaining to bus size, passenger capacity and security, and has within three business days thereafter submitted the determination to the speaker of the council accompanied by the detailed analysis that formed the basis for such determination; provided, however, that purchases of buses for use by the department of correction shall become subject to the provisions of this section immediately after an alternative fuel bus that meets such needs becomes available, provided, further, however, that the city shall not be required to purchase alternative fuel buses for use by the department of correction if the only available alternative fuel buses that meet such department's needs pertaining to bus size, passenger capacity and security cost more than fifty percent more than other buses that meet such needs of such department.

h. The commissioner may by rule require periodic testing of alternative fuel buses and the submission of information concerning the operation and maintenance of such buses purchased or newly operated in the city to ensure compliance with this section and to collect information for reports required by this section.

i. The commissioner may order the owner or operator of a bus to which this section applies to conduct such tests, or the department may conduct such tests, as are necessary in the opinion of the commissioner to determine whether such bus is in compliance with this section.

j. The department may inspect at a reasonable time and in a reasonable manner any equipment, apparatus, fuel, matter or thing that affects or may affect the proper maintenance or operation of an alternative fuel bus to which this section applies.

HISTORICAL NOTE

Section repealed and added L.L. 38/2005 § 2, eff. Aug. 9, 2005. [See

§ 24-163.1 Note 1]

Section added L.L. 6/1991 § 1, eff. Jan. 24, 1991.

Subd. d par (1) amended L.L. 21/2006 § 2, eff. June 19, 2006. [See

Note 1]

Subd. g amended L.L. 21/2006 § 3, eff. June 19, 2006. [See Note 1]

NOTE

1. Provisions of L.L. 21/2006:

§ 5. This local law shall take effect immediately [June 19, 2006] upon its enactment into law, provided that subparagraph (iii) of paragraph one of subdivision d of section 24-163.2, as added by section two of this local law, shall expire on the date that the report due January 1, 2010 pursuant to that paragraph is submitted as required, and provided

further that paragraph three of subdivision g of section 24-163.2, as added by section three of this local law, shall expire on June 30, 2009.

FOOTNOTES

31

[Footnote 31]: * Subpar (iii)expires on the expires on the date that the report due January 1, 2010 pursuant to that paragraph is submitted as required. See Note 1.

32

[Footnote 32]: * Par. (3) expires June 30, 2009 per L.L. 21/2006 § 5. See Note 1.

Administrative Code of the City of New York

***** Current through December 2009 ****

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Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.3 Use of ultra low sulfur diesel fuel and best available technology in nonroad vehicles.

a. For purposes of this section only, the following terms shall have the following meanings:

(1) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(2) "Contractor" means any person or entity that enters into a public works contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such public works contract.

(3) "Lower Manhattan" means the area of New York county consisting of the area to the south of and within Fourteenth street.

(4) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

(5) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section

7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

(6) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment, except that this term shall not apply to horticultural maintenance vehicles used for landscaping purposes that are powered by a nonroad engine of sixty-five horsepower or less and that are not used in any construction program or project.

(7) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(8) "Public works contract" means a contract with a city agency for a construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a contract with a city agency for the preparation for any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a city agency for any final work involved in the completion of any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge.

(9) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

b. (1) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall be powered by ultra low sulfur diesel fuel.

(2) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall utilize the best available technology for reducing the emission of pollutants.

c. (1) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall use ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

(2) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall utilize the best available technology for reducing the emission of pollutants for diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

d. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available technology for reducing the emission of pollutants to be used for each type of diesel-powered nonroad vehicle to which this section applies for the purposes of paragraph two of subdivision b and paragraph two of subdivision c of this section. Each such determination, which shall be updated on a regular basis, but in no event less than once every six months, shall be primarily based upon the reduction in emissions of particulate matter and secondarily based upon the reduction in emissions of nitrogen oxides associated with the use of such technology and shall in no event result in an increase in the emissions of either such pollutant. In determining the best available technology for reducing the emission of pollutants, the commissioner shall select technology from that which has been verified by the United States environmental protection agency or the California air resources board for use in nonroad vehicles or onroad vehicles where such technology may also be used in nonroad vehicles, but the commissioner may select technology that is not verified as such as is deemed appropriate.

(2) No city agency or contractor shall be required to replace best available technology for reducing the emission

of pollutants or other authorized technology utilized for a diesel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle.

e. A city agency shall not enter into a public works contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. (1) The provisions of subdivision b of this section shall apply to any diesel-powered nonroad vehicle in use in Lower Manhattan that is owned by, operated by or on behalf of, or leased by a city agency and the provisions of subdivision c of this section shall apply to any public works contract for Lower Manhattan upon the effective date of this section.

(2) The provisions of paragraph one of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph one of subdivision c of this section shall apply to all public works contracts six months after the effective date of this section.

(3) The provisions of paragraph two of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph two of subdivision c of this section shall apply to any public works contract that is valued at two million dollars or more one year after the effective date of this section.

(4) The provisions of paragraph two of subdivision c of this section shall apply to all public works contracts eighteen months after the effective date of this section.

g. (1) On or before January 1, 2005, and every succeeding January 1, the commissioner shall report to the comptroller and the speaker of the council on the use of ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and the use of the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this section for such vehicles by city agencies during the immediately preceeding*21 fiscal year. This report shall include, but not be limited to (i) the total number of diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by each city agency or used to fulfill the requirements of a public works contract for each city agency; (ii) the number of such nonroad vehicles that were powered by ultra low sulfur diesel fuel; (iii) the number of such nonroad vehicles that utilized the best available technology for reducing the emission of pollutants, including a breakdown by vehicle model and the type of technology used for each vehicle; (iv) the number of such nonroad vehicles that utilized such other authorized technology in accordance with this section, including a breakdown by vehicle model and the type of technology used for each vehicle; (v) the locations where such nonroad vehicles that were powered by ultra low sulfur diesel fuel and/or utilized the best available technology for reducing the emission of pollutants or such other authorized technology in accordance with this section were used; (vi) all findings, and renewals of such findings, issued pursuant to subdivision j of this section, which shall include, but not be limited to, for each finding and renewal, the quantity of diesel fuel needed by the city agency or contractor to power diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by the city agency or used to fulfill the requirements of a public works contract for such agency; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and detailed information concerning the city agency's or contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and (vii) all findings and waivers, and renewals of such findings and waivers, issued pursuant to paragraph one or paragraph three of subdivision k or subdivision m of this section, which shall include, but not be limited to, all specific information submitted by a city agency or contractor upon which such findings, waivers and renewals are based and the type of such other authorized

technology, if any, utilized in accordance with this section in relation to each finding, waiver and renewal, instead of the best available technology for reducing the emission of pollutants.

(2) Where a determination is in effect pursuant to subdivision i of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

h. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

i. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section, but in no event shall be in effect after September 1, 2006.

j. Paragraph one of subdivision b and paragraph one of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply to a city agency or contractor in its fulfillment of the requirements of a public works contract for such agency where such agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section, is not available to meet the requirements of paragraph one of subdivision b or paragraph one of subdivision c of this section, provided that such agency or contractor in its fulfillment of the requirements of a public works contract for such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any finding made pursuant to this subdivision shall expire after sixty days, at which time the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect unless the city agency renews the finding in writing and such renewal is approved by the commissioner.

k. Paragraph two of subdivision b and paragraph two of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply:

(1) to a diesel-powered nonroad vehicle where a city agency makes a written finding, which is approved, in writing, by the commissioner, that the best available technology for reducing the emission of pollutants as required by those paragraphs is unavailable for such vehicle, in which case such agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle; or

(2) to a diesel-powered nonroad vehicle that is used to satisfy the requirements of a specific public works contract for fewer than twenty calendar days; or

(3) to a diesel-powered nonroad vehicle where the commissioner has issued a written waiver based upon a city agency or contractor having demonstrated to the commissioner that the use of the best available technology for reducing the emission of pollutants might endanger the operator of such vehicle or those working near such vehicle, due to engine malfunction, in which case such city agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle, which would not endanger the operator of such vehicle or those working near such vehicle.

l. In determining which technology to use for the purposes of paragraph one or paragraph three of subdivision k of this section, a city agency or contractor shall primarily consider the reduction in emissions of particulate matter and secondarily consider the reduction in emissions of nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of either such pollutant.

m. Any finding or waiver made or issued pursuant to paragraph one or paragraph three of subdivision k of this section shall expire after one hundred eighty days, at which time the requirements of paragraph two of subdivision b and paragraph two of subdivision c of this section shall be in full force and effect unless the city agency renews the finding, in writing, and the commissioner approves such finding, in writing, or the commissioner renews the waiver, in writing.

n. Any contractor who violates any provision of this section, except as provided in subdivision o of this section, shall be liable for a civil penalty between the amounts of one thousand and ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section.

o. No contractor shall make a false claim with respect to the provisions of this section to a city agency. Where a contractor has been found to have done so, such contractor shall be liable for a civil penalty of twenty thousand dollars, in addition to twice the amount of money saved by such contractor in association with having made such false claim.

p. This section shall not apply to any public works contract entered into or renewed prior to the effective date of this section.

q. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

HISTORICAL NOTE

Section added L.L. 77/2003 § 2, eff. June 19, 2004. [See Note 1]

NOTE

1. Provisions of L.L. 77/2003:

Section 1. Declaration of Legislative Findings and Intent. The Council finds that diesel emissions, due in large part to their high concentrations of particulate matter, are associated with severe and multiple health risks to the citizens of New York City. Public health organizations, including the National Institute of Occupational Safety and Health, the World Health Organization, the United States Environmental Protection Agency (EPA), the California Environmental Protection Agency and the United States Department of Health and Human Services' National Toxicology Program, have associated diesel exhaust or diesel particulates with an increased risk of cancer. Additionally, the health effects associated with particulate matter include decreased lung function, aggravated asthma, respiratory symptoms and premature death.[1]22 Nonroad diesel equipment is the single largest mobile source-based source of diesel particulate matter.

Diesel exhaust also contains nitrogen oxides, which combine with volatile organic compounds in the air, such as hydrocarbons-also emitted by nonroad vehicles-to form ground-level ozone, or smog, in the presence of heat and sunlight.[2]23 Ozone may cause a variety of respiratory problems, including aggravated asthma, decreases in lung capacity and increased susceptibility to respiratory illnesses.[3]24 It is damaging to lung tissue in high concentrations and during long-term exposure.[4]25 New York City continues to be classified as a "severe-17 nonattainment area" for ozone.[5]26

As mentioned above, increased particulate matter concentrations and nitrogen oxides have been positively linked

to increases in the aggravation of asthma, which can lead to increased rates of preventable hospitalization and premature death. The Council finds that reducing particulate matter and nitrogen oxide emissions may help to stem the tide of the asthma epidemic in New York City. In the year 2000 alone, there were 26,868 asthma-related hospitalizations in New York City.[6]27 These hospitalizations resulted in $242,454,056 of medical expenses-an average of $9023.90 per hospitalization-of which 49.4% of the charges, or $119,772,304, was paid by Medicaid and 23.1% of the charges, or $56,006,887, was paid by Medicare.[7]28

The EPA, recognizing the harmful effects of diesel emissions from nonroad vehicles, issued a proposed rule on April 15, 2003, which would require that sulfur levels in nonroad diesel fuel be limited to 15 parts per million in 2010. This rule would also require, starting in 2008 for smaller nonroad vehicles, that engines meet more stringent emissions standards.

Nonroad vehicles, such as backhoes, bulldozers, excavation machines, generators and cranes, have been and will be used to perform necessary and important functions at Ground Zero and will play a major role in the rebuilding of the area for years to come. The Council finds, however, that the City has a responsibility toward the people who live, work and attend school in Lower Manhattan, to minimize, wherever practical, the pollution such equipment and machinery emit into the air. The Council finds that the use of ultra low sulfur diesel fuel to power the diesel-powered nonroad vehicles operating at Ground Zero and in other parts of Lower Manhattan would reduce the amount of particulates released into the air by these vehicles, thereby improving air quality in that area. The Council further finds that using nonroad vehicles that utilize the best available technology for reducing the emission of harmful pollutants, such as particulate matter and nitrogen oxides, would have a dramatic impact on the level of pollutants being released in Lower Manhattan.

The Council finds that air quality is a concern in all parts of New York City, as well as in Lower Manhattan, particularly since the City suffers from some of the highest asthma rates in the country. Therefore, the Council finds that it is in the best interest of the health of our City's residents, workers and schoolchildren for the City to use ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants in its diesel-powered nonroad vehicles in all areas of the City, in addition to Lower Manhattan. The Council also finds that the City should contract for construction services with contractors who use ultra low sulfur diesel fuel and the best available technology to minimize the release of harmful pollutants in diesel-powered nonroad vehicles. Acting with the discretion allowed any private participant in the market, the City should choose to allocate its purchasing dollars in order to protect the health of its residents, thus decreasing the number of asthma hospitalizations and associated costs to the City, as well.

This legislation requires that any diesel-powered nonroad vehicle, fifty horsepower and greater, that is owned by, operated by or on behalf of, or leased by a City agency be powered by ultra low sulfur diesel fuel and utilize the best available technology for reducing the emission of pollutants. Additionally, this legislation requires that any solicitation for a public works contract and any contract entered into as a result of such solicitation include specifications that all contractors in the performance of such contract use ultra low sulfur diesel fuel and the best available technology for reducing the emission of pollutants for diesel-powered nonroad vehicles. All contractors in the performance of such contract must comply with such specifications. Although these requirements would apply to such vehicles only in Lower Manhattan at first, they would subsequently apply to nonroad vehicles in all other areas of the City. The Council finds that this legislation will have an important impact on improving the air quality throughout New York City and, consequently, may annually save the City millions of dollars in avoided health care costs.

FOOTNOTES

21

[Footnote 21]: * So in original. "preceeding" s.b. "preceding".

22

[Footnote 22]: 1 United States Environmental Protection Agency, "Health and Environmental Effects of Particulate Matter, Fact Sheet", July 17, 1997, http://www.epa.gov/ttn/oarpg/naaqsfin/pmhealth.html.

23

[Footnote 23]: 2 http://www.epa.gov/otaq/invntory/overview/pollutants/nox.htm.

24

[Footnote 24]: 3 http://www.epa.gov/air/oaqps/airtrans/groundoz.html.

25

[Footnote 25]: 4 American Lung Association of New York State, Inc., "Unhealthful to Breathe: Summer Ozone Levels in New York State", October 2002, p. 6.

26

[Footnote 26]: 5 This classification means that the area does not meet the national primary or secondary ambient air quality standard for ozone; it has a design value of from 0.190 up to 0.280 ppm for ozone; and, it has until 2007 to attain compliance with the standards.
http://www.epa.gov/oar/oaqpsd/greenbk/define.html#Designations.

27

[Footnote 27]: 6 New York City Department of Health and Mental Hygiene, "Asthma Facts, Second Edition ("Asthma Facts")", May 2003, Figure 6, p. 12.

28

[Footnote 28]: 7 Asthma Facts, Figure 11, p. 13.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.4

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.4 Use of ultra low sulfur diesel fuel and best available retrofit technology by the city's diesel fuel-powered motor vehicles.

a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(4) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power

other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department or vehicles, other than buses, specially equipped for emergency response by the department of correction.

(5) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(6) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

b. (1) Each diesel fuel-powered motor vehicle owned or operated by a city agency shall be powered by ultra low sulfur diesel fuel.

(2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by city agencies shall utilize the best available retrofit technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

i. 7% of all such motor vehicles by January 1, 2007;

ii. 14% of all such motor vehicles by January 1, 2008;

iii. 30% of all such motor vehicles by January 1, 2009;

iv. 50% of all such motor vehicles by January 1, 2010;

v. 70% of all such motor vehicles by January 1, 2011;

vi. 90% of all such motor vehicles by January 1, 2012;

vii. 100% of all such motor vehicles by July 1, 2012.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) The commissioner may determine that a technology, whether or not it has been verified by the United States environmental protection agency or the California air resources board, may be appropriate to test, on an experimental basis, on a particular type of diesel fuel-powered motor vehicle owned or operated by a city agency. The commissioner may authorize such technology to be installed on up to five percent or twenty-five of such type of motor vehicle, whichever is less. Any motor vehicle on which such technology is installed may be counted for the purpose of meeting the requirements of paragraph two of subdivision b of this section. Such technology shall not be required to be installed on other motor vehicles of the same type and shall be subject to the provisions of paragraph three of this subdivision.

(3) No city agency shall be required to replace best available retrofit technology or experimental technology utilized for a diesel fuel-powered motor vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

f. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where a city agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section, is not available to meet the requirements of this section, provided that such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing.

g. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles owned or operated by city agencies during the immediately preceding calendar year. The information contained in this report shall include, but not be limited to, for each city agency: (i) the total number of diesel fuel-powered motor vehicles owned or operated by such agency; (ii) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-powered motor vehicles owned or operated by such agency having a gross vehicle weight rating of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that utilized technology in accordance with paragraph two of subdivision c of this section and the results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and renewals of such findings, issued pursuant to subdivision f of this section, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section; and detailed information concerning the agency's

efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section.

(2) Where a determination is in effect pursuant to subdivision e of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

(3) The report due January 1, 2007 in accordance with paragraph one of this subdivision shall only include the information required pursuant to subparagraphs (i), (ii) and (vii) of such paragraph.

h. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

HISTORICAL NOTE

Section added L.L. 39/2005 § 1, eff. Nov. 9, 2005. [See Note 1]

Subd. a par (4) amended L.L. 21/2006 § 4, eff. June 19, 2006.

NOTE

1. Provisions of L.L. 39/2005:

§2. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 3. This local law shall take effect six months after its enactment, except that the commissioner of environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect. The commissioner shall publish proposed rules no later than ninety days from the date of enactment of this section.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.5

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.5 Use of ultra low sulfur diesel fuel and best available retrofit technology in the fulfillment of solid waste contracts and recyclable materials contracts.

a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board unless as otherwise deemed appropriate by the commissioner for a nonroad vehicle, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) "Contractor" means any person or entity that enters into a solid waste contract or recyclable materials contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such solid waste contract or recyclable materials contract.

(4) "Motor vehicle" shall mean a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability.

(5) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in the fulfillment of any solid waste contract or recyclable materials contract.

(6) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, front loaders, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment.

(7) "Operate primarily within the city of New York" means that greater than fifty percent of the time spent or miles traveled by a motor vehicle or nonroad vehicle during the performance of a solid waste contract or recyclable materials contract occurs within the city of New York.

(8) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(9) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(10) "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

(11) "Recyclable materials contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of recyclable materials.

(12) "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

(13) "Solid waste contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of solid waste.

(14) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

b. (1) Any solid waste contract or recyclable materials contract shall specify that all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that operate primarily within the city of New York shall be powered by ultra low sulfur diesel fuel and all contractors in the performance of such contract shall comply with such specification.

(2) Any solid waste contract or recyclable materials contract shall specify that, as of March 1, 2006, all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that

operate primarily within the city of New York shall utilize the best available retrofit technology and all contractors in the performance of such contract shall comply with such specification.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle and diesel fuel-powered nonroad vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No contractor shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. A city agency shall not enter into a solid waste contract or recyclable materials contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the city agency that has entered into the applicable solid waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that the contractor, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered vehicles. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing.

h. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle where the city agency that has entered into the applicable solid waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such vehicle, in which case the contractor

shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such vehicle. Any waiver issued pursuant to this subdivision shall expire after three years.

i. (1) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered motor vehicle that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

(2) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered nonroad vehicle that is equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter for such vehicle as set forth in the Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule, published in the federal register on June 29, 2004 at 69 Fed. Reg. 38,958 et seq., or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

j. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of a solid waste contract or recyclable materials contract during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles, respectively, used in the performance of solid waste contracts or recyclable materials contracts; (ii) the number of such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel; (iii) the number of such motor vehicles and nonroad vehicles, respectively, that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such motor vehicles and nonroad vehicles, respectively, that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles and nonroad vehicles, respectively, that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision i of this section; (vi) the locations where such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; (vii) all waivers, findings, and renewals of such findings, issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the contractor to power diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used to fulfill the requirements of a solid waste contract or recyclable materials contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii) all waivers issued pursuant to subdivision h of this section, which shall include, but not be limited to, all findings and specific information submitted by the city agency or contractor upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

l. Any contractor who violates any provision of this section, except as provided in subdivision m of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section.

m. Where a contractor has been found to have made a false claim with respect to the provisions of this section, such contractor shall be liable for an additional civil penalty of twenty thousand dollars.

n. This section shall not apply to any solid waste contract or recyclable materials contract entered into or renewed prior to the effective date of this section.

o. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

HISTORICAL NOTE

Section added L.L. 40/2005 § 1, eff. Sept. 9, 2005. [See Note 1]

NOTE

1. Provisions of L.L. 40/2005:

§ 3. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 4. This local law shall take effect four months after its enactment, except that the commissioner of environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.6

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.6 Use of best available retrofit technology by sight-seeing buses.

a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(3) "Sight-seeing bus" means a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

b. Beginning January 1, 2007, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code and that is equipped with an engine that is over three years old shall utilize the best available retrofit technology.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered sight-seeing bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No owner or operator of a diesel fuel-powered sight-seeing bus licensed pursuant to the provisions of subchapter 21 of chapter 2 of title 20 of the administrative code shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4-strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3-strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2-strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1-strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered sight-seeing bus where the department of consumer affairs makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years.

f. The requirements of subdivision b of this section shall not apply to a diesel-fuel powered sight-seeing bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

g. Not later than January 1, 2008, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of the best available retrofit technology by diesel fuel-powered sight-seeing buses during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered sight-seeing buses licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code; (ii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iii) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision f of this section; (v) the locations where such buses that utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental

protection agency standard for particulate matter were used; (vi) the age of the engine with which each bus that did not utilize the best available retrofit technology is equipped; and (vii) all waivers issued pursuant to subdivision e of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of consumer affairs or the owner or operator of a diesel fuel-powered sight-seeing bus upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

h. Any owner or operator of a diesel fuel-powered sight-seeing bus who violates any provision of this section, except as provided in subdivision i of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such owner or operator for failure to comply with this section.

i. Where an owner or operator of a diesel fuel-powered sight-seeing bus has been found to have made a false claim with respect to the provisions of this section, such owner or operator shall be liable for an additional civil penalty of twenty thousand dollars.

HISTORICAL NOTE

Section added L.L. 41/2005 § 1, eff. Nov. 9, 2005. [See Note 1]

NOTE

1. Provisions of L.L. 41/2005:

§ 5. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 6. This local law shall take effect six months after its enactment, except that the commissioners of consumer affairs and environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law on or before the date upon which it shall take effect. The commissioners shall publish proposed rules no later than ninety days from the date of enactment of this section.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.7

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.7 Use of ultra low sulfur diesel fuel and best available retrofit technology in school bus transportation.

a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision e of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "Department of education" means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

(3) "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(4) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel

emission control strategies, as set forth in subdivision e of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(5) "School bus" means any vehicle operated pursuant to a school bus contract, designed to transport ten or more children at one time, of the designation "Type C bus" or "Type D bus" as set forth in 17 NYCRR §§ 720.1(Z) and (AA), and used to transport children to or from any school located in the city of New York, and excluding any vehicle utilized primarily to transport children with special educational needs who do not travel to and from school in vehicles used to transport general education students.

(6) "School bus contract" means any agreement between any person and the department of education to transport children on a school bus.

(7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

b. (1) Beginning July 1, 2006, any diesel fuel-powered school bus that is operated by a person who fuels such school bus at any facility at which ultra low sulfur diesel fuel is available, or of which such person has the exclusive use and control, or at which such person has the ability to specify the fuel to be made available, shall be powered by ultra low sulfur diesel fuel.

(2) Beginning September 1, 2006, any diesel fuel-powered school bus to which paragraph one of this subdivision does not apply shall be powered by ultra low sulfur diesel fuel.

c. Diesel fuel-powered school buses shall utilize the best available retrofit technology in accordance with the following schedule:

i. 50% of school buses used to fulfill each school bus contract by September 1, 2006;

ii. 100% of school buses used to fulfill each school bus contract by September 1, 2007.

d. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered school bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No person shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered school bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision e of this section, shall not be required to be replaced until it has reached the end of its useful life.

(3) For purposes of this subdivision, any best available retrofit technology, or substantially similar technology, purchased or installed in whole or in part with funds provided by the state of New York or the federal government pursuant to a specific diesel emissions reduction program in effect upon the date of enactment of this section, shall constitute the best available retrofit technology for a period of not less than three years from the date on which such equipment was installed.

e. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4-strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3-strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2-strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1-strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

f. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of school buses to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months thereafter if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the department of education makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that school buses, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves renewal, in writing.

h. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered school bus where the department of education makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such school bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years.

i. Subdivision c of this section shall not apply to a diesel-fuel powered school bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

j. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by school buses during the immediately preceding fiscal year. The information contained in this report shall also be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the number of school buses used to fulfill the requirements of school bus contracts; (ii) the number of such buses that were powered by ultra low sulfur diesel fuel; (iii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine age and the type of technology used for each vehicle; (v) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision i of this section; (vi) the school districts where such buses that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; (vii) all waivers, findings and renewals of such findings issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the school bus owner or operator to power diesel fuel-powered school buses used to fulfill the requirements of a school bus contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the school bus

owner's or operator's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii) all waivers issued pursuant to subdivision h of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of education or a school bus owner or operator upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

l. Any person who violates any provision of this section, except as provided in subdivision m of this section, shall be liable for a civil penalty of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section.

m. Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be liable for an additional civil penalty of twenty thousand dollars.

n. This section shall not apply to any school bus contract entered into or renewed prior to the effective date of this section.

o. Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

HISTORICAL NOTE

Section added L.L. 42/2005 § 1, eff. May 9, 2005. [See Note 1]

NOTE

1. Provisions of L.L. 42/2005:

§ 3. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-163.8

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-163.8 Use of ultra low sulfur diesel fuel in diesel-powered generators used in the production of films, television programs and advertisements, and at street fairs.

a. Definitions. When used in this chapter:

(1) "Alternative fuel" means a fuel, other than gasoline or standard diesel fuel, which may be used to power a generator subject to the provisions of this section so long as the respective quantities of each pollutant emitted by such generator when operated using such fuel do not exceed the respective quantities of each pollutant emitted when such generator is operated using ultra low sulfur diesel fuel.

(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) "Generator" means a machine or device that combusts fossil fuel to create electricity.

(4) "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(5) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per

million.

b. (1) Any diesel-powered generator that is used to provide electrical power for equipment used in the production of any film, television program or advertisement, or for a street fair, where such production or street fair requires a permit from a city agency, shall be powered by ultra low sulfur diesel fuel.

(2) The mayor's office of film, theatre, and broadcasting shall issue to all film, television and advertising production companies that apply for a filming permit a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized in a film, television or advertising production must use ultra low sulfur diesel fuel or an alternative fuel.

(3) The street activity permit office shall issue to all applicants for a street activity permit for a street fair a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized for a street fair must use ultra low sulfur diesel fuel or an alternative fuel.

c. Any person who violates any provision of this section or has been found to have made a false claim to a city agency with respect to the provisions of this section shall be liable for a civil penalty in the amount of five hundred dollars for each false claim to a city agency and five hundred dollars for each day in which they are otherwise in violation of such provision.

HISTORICAL NOTE

Section added L.L. 16/2009 § 1, eff. June 16, 2009. [See Note 1]

NOTE

1. Provisions of L.L. 16/2009:

§ 2. If any section, subdivision, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not effect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 3. This local law shall take effect ninety days after enactment, except that the commissioner of environmental protection shall take all actions necessary, including the promulgation of rules, to implement this local law prior to such effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-164

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-164 Operation of soot blower of vessels prohibited.

No person shall cause or permit the soot blower of a vessel, other than a vessel which travels only in waters within the jurisdiction of the city of New York, to operate while the vessel is within the waters of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.17 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-165

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-165 Use of air contaminant detector; use of contaminant recorder; recording of time, duration, concentration and density of air contaminant.

(a) Whenever the use of an air contaminant detector is required by this code, the air contaminant detector must automatically cause both an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet from the detector and a readily visible flashing red light upon the emission of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) The signalling devices of the air contaminant detector shall also be located at the principal work location of the person supervising the equipment.

(c) If two or more units of equipment are connected to a single flue, one air contaminant detector may be used if installed to monitor all of the units.

(d) If the light source of a photoelectric type of air contaminant detector fails to operate properly, the detector must automatically cause an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet away from the detector and a readily visible flashing red light which shall continue to operate until manually reset.

(e) Whenever the use of an air contaminant recorder is required by this code, the air contaminant recorder must:

(1) continuously produce a record of the time, duration, concentration and density of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than number one; or

(2) continuously produce a record of the time, duration, and concentration of sulfur dioxide and nitrogen oxides by volume and particulate matter by weight.

(f) Except as provided in section 24-171 of this code, the record made by the air contaminant recorder shall be dated and retained on the premises where the recorder is located for a period of sixty days from the last date appearing on the record.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.19 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-166

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-166 Use of combustion shutoff; halting of emission of air contaminant.

(a) Whenever the use of a combustion shutoff is required by this code or by the commissioner, the combustion shutoff must automatically halt the operation of fuel burning equipment using fuel oil within two minutes after the emission of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) No person shall cause or permit the resumption of the normal operation of the fuel burning equipment whose operation was halted by a combustion shutoff until the equipment operates in accordance with the standards of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.21 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-167

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 7 EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-167 Improper use of equipment or apparatus prohibited.

No person shall use or permit the use of equipment or apparatus for a purpose or in a manner which causes it to function improperly or not in accordance with its design.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-11.25 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-168

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-168 Use of proper fuel in fuel burning equipment.

(a) No person shall cause or permit the use of a kind or grade of fuel in fuel burning equipment which is not designed to burn that kind or grade of fuel.

(b) No person shall cause or permit the burning of refuse material in fuel burning equipment unless the equipment is designed to burn refuse material.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.01 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-169

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-169 Sulfur content of fuel restricted.

Except for ocean-going vessels engaged in international or interstate trade, no person, other than one having a sulfur exemption certificate, shall cause or permit the use, or if intended for use in New York city, the purchase, sale, offer for sale, storage or transportation of:

(a) Fuel oil grade no. 2 as classified by the American society for testing and materials, which contains more than the following percentages of sulfur by weight:

(1) For a period ending October first, nineteen hundred seventy-one, 0.5 percent;

(2) After October first, nineteen hundred seventy-one, 0.2 per- cent.

(b) Residual fuel oil and fuel oil grade no. 4 as classified by the American society for testing and materials or solid fuel on a dry basis, which contains more than the following percentages of sulfur by weight:

(1) For a period ending October first, nineteen hundred seventy-one, one percent;

(2) After October first, nineteen hundred seventy-one, 0.30 percent.

(c) Residual fuel oil or fuel oil grade no. 4 as classified by the American society for testing and materials used in

facilities for the generation of steam for off-premises sale and electricity, which contains more than the following percentages of sulfur by weight:

(1) For a period ending October first, nineteen hundred seventy-one, one percent;

(2) For a period ending October first, nineteen hundred seventy-two, an annual average of 0.55 percent;

(3) After October first, nineteen hundred seventy-two, 0.30 percent.

(d) Those facilities burning solid fuel which are operated in compliance with this code may, at the discretion of the commissioner, continue to burn solid fuel containing up to 0.7 percent sulfur after October first, nineteen hundred seventy-one, provided that there is no increase or expansion of use and further provided that a report, satisfactory to the commissioner, is submitted setting forth a detailed program, including a specific time schedule, for the termination of use of such solid fuel.

(e) Sulfur by weight shall be calculated by the methods of the American society for testing and materials.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.03 added LL 49/1971 § 1

Amended LL 20/1972 § 1

(Amendment omitted § number and heading)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-170

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-170 Reporting of fuel supplies.

he owner of any boiler with a capacity of five hundred million Btu per hour or more shall report fuel supply information to the commissioner on or before the first day of each month.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.04 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-171

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-171 Sulfur exemption certificates.

(a) Except for fuel burning equipment that must comply with the sulfur dioxide emission standards of section 24-144 of this code, the commissioner may grant a certificate of exemption from the sulfur content restrictions of section 24-169 of this code if the applicant establishes to the satisfaction of the commissioner that the fuel burning equipment is operated in such a manner, or is equipped with such control apparatus, as to continuously prevent the emission of any sulfur compound or compounds in an amount greater than that which would have been emitted from the same fuel burning equipment, if operated, in the absence of control apparatus, using fuel which complies with the sulfur content restrictions of section 24-169 of this code.

(b) The commissioner may grant a temporary certificate of exemption from the sulfur content restrictions of section 24-169 of this code, if the applicant establishes to the satisfaction of the commissioner that the application is for the purpose of conducting an experimental operation prior to application for a sulfur exemption certificate.

(c) A sulfur exemption certificate shall be valid for one year from the date granted or renewed, unless sooner suspended or revoked. Application for renewal shall be made by the holder of the certificate, and shall be postmarked, or where personally delivered, date stamped by the department no later than ninety days prior to the expiration of the certificate. The commissioner may renew a sulfur exemption certificate if he or she is satisfied that the provisions of this code and the conditions and terms contained in the certificate will be met.

(d) Any sulfur exemption certificate or temporary sulfur exemption certificate issued by the commissioner shall be limited to the kind and amount of fuel specified, and to use in the equipment described, and may be further limited as determined by the com- missioner.

(e) A separate application for a sulfur exemption certificate or temporary sulfur exemption certificate shall be made for each unit of fuel burning equipment for which exemption is sought.

(f) In addition to the conditions and limitations for the issuance of a sulfur exemption certificate or temporary sulfur exemption certificate specified in this section, the commissioner may provide such further conditions or limitations as he or she may deem appropriate.

(g) A temporary sulfur exemption certificate shall be valid for three months from the date granted or renewed, unless sooner suspended or revoked. The commissioner may renew a temporary certificate no more than once upon application which is postmarked or dated by the department no later than fourteen days prior to the expiration of the certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.05 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-172

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-172 Volatile content of solid fuel restricted.

(a) No person shall cause or permit the use of solid fuel as the normal boiler fuel which contains more volatile matter by weight in any part thereof than:

(1) If used in equipment which is hand-fed, fourteen percent; or

(2) If used in equipment which is mechanically fed, thirty-two percent.

(b) Volatile matter shall be calculated on a moisture and ash-free basis.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.07 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-173

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-173 Use of solid fuel.

(a) Except as provided in subdivision (c) of this section, no person shall cause or permit the use of solid fuel in fuel burning equipment to provide heat or hot water for any structure or any part thereof, other than the generation of steam for off-premises sale.

(b) No person shall cause or permit the use of solid fuel in fuel burning equipment for any purpose whatsoever, unless he or she has complied with subdivision (c) of this section. No person shall cause or permit the use of bituminous coal in fuel burning equipment, for which an operating certificate or certificate of registration is required pursuant to this chapter for any purpose whatsoever.

(c) Solid fuel, unless otherwise prohibited by this section, may be used for fueling boilers used for on-site space heating, provided that:

(1) No expansion of capacity of the boiler shall be made over capacity existing on May twentieth, nineteen hundred sixty-eight; and

(2) Only anthracite coal is used; or

(3) The solid fuel shall meet the following criteria:

(a) Volatile content shall not exceed thirty-two percent by weight.

(b) Fixed carbon shall not be lower than sixty-six percent by weight.

(c) Ash shall not exceed four percent by weight.

(d) Sulfur shall not exceed 0.7 percent by weight.

(e) Heating value shall not be less than fourteen thousand seven hundred fifty Btu/lb.

All the above criteria shall be measured on a dry basis.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.09 added LL 49/1971 § 1

Amended LL 93/1985 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-174

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-174 Lead content of gasoline restricted.

(a) No person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which contains more than the following amount of lead by weight for the respective octane ranges as follows:

[See tabular material in printed version]

(b) Where the lead content of gasoline is restricted to zero grams per gallon as in subdivision (a) of this section, gasoline which contains 0.075 grams of lead per gallon shall be deemed to meet such restriction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.11 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-175

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-175 Volatility limits on gasoline.

Effective October first, nineteen hundred seventy-one, no person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which exceeds the following volatility limits:

(a) For the period October first, through April thirtieth, not to exceed twelve Reid vapor pressure.

(b) For the period May first through September thirtieth, not to exceed seven Reid vapor pressure.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.12 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-176

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-176 Fuel information ticket required for shipment or delivery of fuel into New York city.

No person, other than a dealer in solid fuel who complies with section 20-626 of the code, shall cause or permit the shipment or delivery of fuel into New York city for use in the city without first reporting the shipment or delivery on a form prescribed by the department to be known as a fuel information ticket. A fuel information ticket shall not be required for fuel shipped into New York city in the engine fuel tank of a motor vehicle. A shipment or delivery includes any sale or non-sale transaction, or any transaction between shipper and recipient who are identical.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.13 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-177

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 8 FUEL STANDARDS

§ 24-177 General requirements for fuel information tickets.

(a) Each fuel information ticket shall contain the following statement signed by the shipper of the fuel: "I hereby attest that I have shipped to the recipient named hereon the fuel specified in this ticket."

(b) Copies of the fuel information ticket required to be retained by the shipper of fuel by subdivision (c) of this section shall be kept at the shipper's place of business. The copy of the fuel information ticket required to be retained by the recipient of the fuel by subdivision (c) of this section shall be kept at his or her place of business or at the place where the delivery was received.

(c) All records relating to the use of fuel, or the distribution, storage or transportation of fuel for use in the city of New York shall be retained for not less than one year and shall be kept readily available at all times during business hours for inspection by the department.

(d) This section shall apply to all shipments of fuel into the city and it shall be no defense to non-compliance that the shipment was not made pursuant to a sales transaction between the shipper and the recipient or that the shipper and the recipient are identical.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-13.15 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-179

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-179 The board.

(a) The board shall be convened by the chairperson or in his or her absence a deputy commissioner or at the request of any three members thereof.

(b) If a member of the board has presided over the initial hearing, he or she shall not be disqualified from reviewing the hearing.

(c) Five members of the board, at least two of whom shall not be city officials, shall constitute a quorum.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.03 added LL 49/1971 § 1

Amended LL 57/1972 § 4

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-180

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-180 Notice of violation.

(a) Notice, required by this subchapter, shall be given by issuance of a notice of violation.

(b) Whenever the commissioner has reasonable cause to believe that a violation of any provision of this code or any order or regulation promulgated thereunder may exist, he or she may cause to have a notice of violation issued and served on:

(1) The person in violation; or

(2) An owner with an equity interest in the equipment in violation; or

(3) If an owner with an equity interest in the equipment in violation cannot be located with due diligence, any other owner of said equipment.

(c) A notice of violation shall:

(1) Specify the section or sections of this code, order, or regulation that such person or equipment is in violation of; and

(2) Indicate the amount of the civil penalty that such person is subject to; and

(3) Contain a brief statement of the nature of the violation; and

(4) Require a written response that conforms to section 24-181 of this code; and

(5) Require such person or owner of equipment to answer the allegations in the notice of violation at a designated time and place, unless a hearing is not required by section 24-178 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.05 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-181

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-181 Written response.

(a) A written response in a form prescribed by the board shall be served upon the department and filed with the board within five days of receipt of the notice of violation.

(b) If the allegation in the notice of violation is one for which a hearing is not required by section 24-178 of this code, and is contested, then the respondent must either:

(1) Include a copy of any permit or certificate that the respondent asserts was issued by the department; or

(2) Deny that such permit or certificate is required by law.

(c) If any of the allegations in the notice of violation are those for which a hearing is required by section 24-178 of this code, and are contested, the written response shall contain a concise statement of the facts constituting each ground of defense.

(d) If allegations in the notice of violation are admitted, the written response of the respondent shall consist of:

(1) A statement that he or she admits all of the material allegations to be true; and

(2) A statement of any attempts subsequent to service of the notice of violation to comply with this code or with

the order or regulation.

(e) Failure of the respondent to serve a written response within the time provided shall be deemed to constitute a waiver of his or her right to appear and contest the allegations in the notice.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.07 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-182

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-182 Citizen's complaint.

(a) Any person, other than personnel of the department and employees of the city of New York authorized by law to serve summonses for violations of the code, may serve upon the department a complaint, in a form prescribed by the department, alleging that a person has violated any provision of this code or order or regulation promulgated by the commissioner or the board, except with respect to sections 24-143, 24-150 and 24-163 of this code, but still applicable to buses as defined in section one hundred four of the vehicle and traffic law and trucks as defined in section one hundred fifty eight of the vehicle and traffic law, together with evidence of such violation. With respect to section 24-142 of this code, only such person who has been certified as a smoke watcher, by passing a course of smoke observation approved by the department within three years prior to the observation, may serve such complaint.

(b) A person who has served a complaint pursuant to subdivision (a) of this section may serve upon the person allegedly in violation, and upon the board, a notice of violation in a form prescribed by the board within forty-five days from service of such complaint if; (1) The department has failed to serve a notice of violation, pursuant to section 24-180 of this code, for the violation alleged in a complaint pursuant to subdivision (a) of this section; or

(2) The department fails to serve a written notice upon the complainant of its determination that his or her complaint is frivolous or duplicitous.

(c) A person commencing a proceeding pursuant to this section shall prosecute such proceeding at his or her

own expense. The department may intervene in such a proceeding at any time.

(d) In any proceeding brought by the department after receiving a complaint, pursuant to subdivision (a) of this section, pertaining to a violation of this code or any regulation or order promulgated by the commissioner or the board, wherein the source of the violation is a manufacturing or industrial facility or a facility for the generation of steam for off-premises sale or electricity or equipment used by any such facility, the board shall award the complainant, out of the proceeds collected, an amount which shall not exceed twenty-five percent of such proceeds, for disclosure of information or evidence, not in the possession of the department prior to the receipt of the complaint by the department, which leads to the imposition of the civil penalty.

(e) In any proceeding brought by a complainant pursuant to subdivision (a) of this section, the board shall award, out of the proceeds collected, fifty percent of any civil penalty as fair and reasonable compensation to such person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 4/2009 § 2, eff. May 11, 2009.

DERIVATION

Formerly § 1403.2-15.09 added LL 49/1971 § 1

Amended LL 35/1974 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-183

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-183 Settlement of proceedings.

The board may settle any proceeding by stipulation and may exercise any or all of its powers under section 24-178 of this code thereby, at any time prior to the issuance of a decision pursuant to section 24-186 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.11 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-184

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-184 Hearings.

(a) The chairperson of the board shall designate a hearing officer or at least one member of the board to preside over hearings held pursuant to this subchapter. In any hearing in which a quorum of the board is present such members shall be deemed to be sitting as the board.

(b) All such hearings shall be open to the public.

(c) At the request of any party to such a hearing, the board shall by the issuance of a subpoena compel the attendance of such witnesses and shall require the production of any such books, papers, or other things relating to the matter under investigation if such a request reasonably relates to such hearing.

(d) Any party to a hearing may be represented by counsel, may make oral and written argument and cross-examine witnesses. All testimony taken before the board or the designated hearing officer shall be under oath and shall be recorded. The record shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproduction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.13 added LL 49/1971 § 1

Amended LL 57/1972 § 5

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-185

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-185 Default; vacating a default order.

(a) A respondent shall be in default when the respondent has:

(1) Failed to serve a written response pursuant to section 24-181 of this code; or

(2) Failed to appear at the designated time and place as required by the notice of violation pursuant to section 24-180 or 24-182 of this code; or

(3) Neglected to proceed in a manner ordered by the board.

(b) Within sixty days of a decision and order of the board issued pursuant to paragraph two of subdivision (c) of section 24-187, the respondent may request the board to grant a stay of such order of the board and schedule a hearing. If the respondent has shown good cause and a meritorious defense, the board may grant such request and hold a hearing pursuant to section 24-184 of this code. At the hearing, the board may adopt, amend, or rescind its decision and order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.15 added LL 49/1971 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-186

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-186 Hearing officer's decision.

(a) At the conclusion of the hearing, the hearing officer or member of the board conducting the hearing shall prepare a decision stating findings of fact and conclusions, as well as reasons for his or her determination on all material issues, and making recommendations as to action which should be taken in the matter.

(b) The hearing officer or member of the board conducting the hearing shall file his or her decision with the board and send copies by mail to the parties. Any party may file exceptions with the board within twenty days after service of such decision. If no exceptions have been filed within the prescribed time, the recommendations of the hearing officer or member of the board conducting the hearing shall automatically become the decision of the board and shall constitute its findings, conclusions, and order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.17 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-187

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-187 Board decision and order.

(a) If any party files exceptions to the decision of the hearing officer or member of the board conducting a hearing within the prescribed time, the board shall review the record and issue its decision and order in which it may adopt, modify, or reject the findings, conclusions, and recommendations of the hearing officer or member of the board who conducted the hearing.

(b) The decision of the board shall contain findings of fact, conclusions of law, and reasons for the decision on all material issues raised, and an order either dismissing the allegations of the notice of violation or sustaining them in whole or in part.

(c) The board may exercise one or more of its powers pursuant to section 24-178 of this code, as it deems appropriate if:

(1) The allegations in the notice of violation are sustained in whole or in part; or

(2) The respondent is in default under section 24-185 of this code.

(d) The decision and order of the board shall be its final determination. A judicial proceeding must be commenced within two months after the service of such decision and order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.19 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-188

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-188 Compliance with board decisions; orders and civil penalties.

(a) If the respondent fails or refuses to comply with the board's order, or the board otherwise deems it necessary, the corporation counsel for the city of New York, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any order of the board.

(b) A civil penalty imposed by the board pursuant to section 24-178 of this code may be collected in an action brought in the name of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.21 added LL 49/1971 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Landlord's petition for an order to stay Environmental Control Board from conducting proceedings to compel

compliance by landlord with the city's anti-air pollution law would be denied where after exhausting its administrative remedies petitioner had adequate remedy at law by seeking judicial review of any adverse determination that might be rendered against it.-Northeast Bronx Hillside Housing Corp. v. Elish, 170 (99) N.Y.L.J. (11-23-73) 2, Col. 2 M.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-189

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-189 Procedural rules.

The board shall have authority from time to time to make, amend, and rescind such procedural rules as may be necessary to carry out the provisions of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.23 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-190

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 1 AIR POLLUTION CONTROL

SUBCHAPTER 9 ENFORCEMENT

§ 24-190 Criminal penalties; fines and imprisonment.

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

(b) Any person, other than a corporation, who violates any order of the commissioner or the board or any provision of section 24-120, 24-122 or 24-146 of this code or who illegally breaks a seal on equipment, upon conviction shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not more than thirty days or by both.

Any corporation which violates any order of the commissioner or the board or any provision of section 24-120, 24-122 or 24-146 of this code, or which illegally causes a seal to be broken, upon conviction shall be punished for each offense by a fine of not less than one hundred dollars nor more than two thousand dollars.

Every day during which such violation occurs constitutes a separate offense.

(c) The failure of any shipper or recipient to keep on file the fuel information tickets as required by section

24-177 of this code shall be deemed a separate and distinct violation as to each such ticket, and upon conviction thereof he or she shall be punished for each offense by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

(d) Any shipment or delivery of fuel except in the manner provided for in this code shall be deemed a separate and distinct violation as to each such shipment or delivery and upon conviction thereof the shipper shall be punished for each offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than thirty days, or by both fine and imprisonment.

(e) Any shipper or recipient of fuel who shall in any manner misrepresent any of the information required to be contained in the fuel information ticket shall be guilty of a violation of this code and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or by imprisonment for not more than sixty days or by both such fine and imprisonment.

(f) The failure of any person or corporation against whom an action has been brought to collect a civil penalty pursuant to subdivision (b) of section 24-188 of this code, who has been found liable by a court for such civil penalty and who does not pay such penalty after the judgment of such becomes final, shall be deemed a wilful failure to pay a civil penalty.

Any person, other than a corporation, convicted of a wilful failure to pay a civil penalty imposed by the board pursuant to section 24-178 of this code shall be punished by a fine of not less than double the amount of the civil penalty imposed by the board nor more than one thousand dollars or by imprisonment of not more than sixty days or, both.

Any corporation convicted of a wilful failure to pay a civil penalty imposed by the board pursuant to section 24-178 of this code shall be punished by a fine of not less than double the amount of the civil penalty imposed by the board nor more than two thousand dollars.

(g) Any person convicted of violating any of the provisions of this code or any regulation of the board not otherwise provided for by this section shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for twenty days or both for the first offense, and by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment for not more than thirty days or both for a second offense, and by a fine of not less than four hundred dollars nor more than five thousand dollars or by imprisonment for not more than four months or both for a third or subsequent offense.

(h) Twenty-five percent of any fine that is imposed pursuant to this section, may be paid to the person or persons giving information which shall lead to conviction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.2-15.25 added LL 49/1971 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-201

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-201 Short title.

This chapter shall be known and may be cited as the New York city noise control code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-1.01 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-202

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-202 Declaration of policy.

It is hereby declared to be the public policy of the city to reduce the ambient sound level in the city, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to ambient sound levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive and unreasonable noises within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city. For the purpose of controlling and reducing such noises, it is hereby declared to be the policy of the city to set the unreasonable and prohibited noise standards and decibel levels contained herein and to consolidate certain of its noise control legislation into this code. The necessity for legislation by enactment of the provisions of this chapter is hereby declared as matter of legislative determination.

This code shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of the board of health or the right of the department of health and mental hygiene to engage in any of its necessary or proper activities. It is the intent of the council that the police department as well as other agencies of the city designated by the commissioner of the department of environmental protection shall have the authority to enforce the provisions of this code and police officers and designated employees of the department of environmental protection and of such other city agencies shall have the power to issue summonses,

appearance tickets and notices of violation for violations of this code.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 1, eff. July 1, 2007.

Section amended L.L. 22/2002 § 50, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

Section amended L.L. 18/1993 § 1, eff. Mar. 12, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-1.03 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-203

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-203 General definitions.

When used in the New York city noise control code the following terms shall have the following meanings:

(1) "A" level means the sound level as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(A). This frequency weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

(2) Activity means any act or combination of acts which actually results in the production of sound.

(3) Air compressor means a device which draws in air or gas, compresses it, and delivers it at a higher pressure.

(4) Air horn means a device intended to produce a sound signal by means of compressed air or gas or exhaust gas.

(5) Airport means an area of land or water that is used or intended to be used for the landing and take off of aircraft, and includes its buildings and facilities, if any.

(6) Ambient sound means the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation

of this code and excluding the contribution of extraneous sound sources. For purposes of the enforcement of this code, the ambient sound level of a given location may be determined based upon measurements taken at a comparable site (which includes but is not limited to comparable physical locations and time of day) in the nearby area.

(7) Apparatus means any mechanism which prevents, controls, detects, measures or records the production of sound.

(8) Audible status indicator means any sound reproduction device on a motor vehicle that emits or causes to be emitted any continuous or near continuous sound (exceeding 5 seconds if tonal in nature or any duration if verbal in nature) for the purpose of warning that an audible burglar alarm has been installed on such motor vehicle and is operational or for creating the appearance that such an alarm has been installed on such motor vehicle and is operational.

(9) Authorized emergency vehicle means an authorized emergency vehicle as defined by section 101 of the vehicle and traffic law.

(10) Board means the environmental control board of the city of New York.

(11) Building means a building as defined in section 27-232 of the administrative code.

(12) Building aperture means any designed opening in a building to which a person may reasonably have access including but not limited to any door, gate, window, skylight or hatch.

(13) Burglar alarm means any sound signal device designed and intended to produce a sound signal upon unauthorized entrance by a person into a building or motor vehicle.

(14) "C" level means the sound level as measured with a sound level meter using the "C" weighting network. The unit of measurement is the dB(C). This frequency weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

(15) Certificate means an operating or temporary operating certificate.

(16) Charter means the New York city charter including all of its amendments.

(17) Circulation device means any device which circulates a gas or fluid, including but not limited to any air conditioner, pump, cooling tower, fan or blower.

(18) Claxon means any manually, mechanically, or electrically powered device, other than an emergency signal device, including but not limited to a motor vehicle horn, which is intended to, and when operated actually does, emit a sound signal.

(19) This code means the New York city noise control code.

(20) Commissioner means commissioner of environmental protection or his or her authorized representative.

(21) Construction or construction work means any or all activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lines including such lines in already-constructed tunnels, or other property, including land clearing, grading, excavating and filling.

(22) Construction device means any device designed and intended for use in construction including, but not limited to any air compressor, pile driver, sledgehammer, bulldozer, pneumatic hammer, steam shovel, derrick, crane,

steam or electric hoist, construction vehicle or pneumatic or electric tool.

(23) Construction material means any material, regardless of composition, designed and customarily used in construction including but not limited to any rails, pillars, columns, beams, bricks, flooring, wall, ceiling or roofing material, gravel, sand, cement or asphalt.

(24) Container means any receptacle, regardless of contents, manufactured from wood, metal, plastic, paper or any other material including but not limited to any barrel, basket, box, crate, tub, bottle, can or refuse container.

(25) Decibel means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure to the pressure of a reference sound (20 micropascals); abbreviated "dB".

(26) Device means any mechanism which is intended to or which actually produces sound when operated or handled.

(27) Department means the department of environmental protection.

(28) Dwelling means any building lawfully occupied in whole or in part as the temporary or permanent residence of one or more natural persons.

(29) Dynamic insertion loss means the difference between two sound pressure levels which are measured at the same point in space before and after a muffler is inserted between the measurement point and the sound source under operating conditions.

(30) Emergency means a public calamity or an exposure of any person or property to imminent danger.

(31) Emergency signal device means any gong, siren whistle, or siren or any air horn or any similar device the use of which on authorized emergency vehicles is permitted by subdivision twenty-six of section three hundred seventy-five of the vehicle and traffic law.

(32) Exhaust source means a system which removes and transports air or gas from a device.

(33) Extraneous sound is sound that is intense, intermittent, not representative of the relatively steady sound levels at a given location and not attributable to a source or sources under investigation for violation of this code. Such sound includes but is not limited to sirens of passing emergency vehicles, unusually loud motor vehicle braking (screeching) or exhaust noise, people shouting, animal vocalization, passing aircraft, horn honking, car door slamming and passing trains. Notwithstanding the foregoing provision, sounds that are individually persistent or controlling of the sound level at a given location shall not be considered to be extraneous sounds if they constitute more than 50 percent of the duration of an ambient or total sound level measurement such as for example the sound of a passing aircraft at a specific location if airplanes regularly pass over such location and the proximity of such passing aircraft to the location, its sound level, and the duration of such sound level, control the sound level at the given location at the time the sound source under investigation is being measured. For the purposes of the enforcement of this code, extraneous sounds are excluded when measuring the ambient sound level at a given location and when measuring the sound level of a source or sources under investigation for violation of this code except where such sounds are themselves under investigation for violation of this code.

(34) Impulsive sound is sound that is of short duration, where each peak of sound lasts 2 seconds or less. The sound is characterized by abrupt onset and rapid decay. As used in this code, the term impulsive sound shall not include music.

(35) Internal combustion engine means a device for the production of energy by means of the combustion under

pressure of fossil fuel.

(36) Lawn care device means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for the mowing of grass, the cutting or chipping of trees, tree roots or tree branches, or the clearing of leaves or other vegetation from lawns, sidewalks, public streets or public highways and shall include, but not be limited to, such devices as lawn mowers and lawn mower attachments, lawn edgers, leaf blowers, leaf vacuums, mulchers and chippers.

(37) Lmax means the maximum measured sound level at any instant in time.

(38) Motor vehicle means any device which is propelled by an engine in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

(39) Muffler means an apparatus generally consisting of but not limited to a series of chambers or baffles for the purpose of transmitting gases while reducing sound levels.

(40) Owner means and includes the owner of the freehold of the premises or lesser estate therein, or mortgagee thereof, a lessee or agent of any of the above persons, a lessee of a device or his or her agent, a tenant, operator, or any other person who has regular control of a device or an apparatus.

(41) Paving breaker means any powered construction device intended to cut or trench pavement, subbase macadam, gravel, concrete or hard ground.

(42) Person means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

(43) Personal audio device means a portable sound reproduction device as normally and customarily used for personal purposes including but not limited to a personal radio, phonograph, television receiver, tape recorder or compact disc player. For the purposes of this definition such term shall include a sound reproduction device installed in or operated from a motor vehicle whether or not portable.

(44) Plainly audible sound means any sound for which any of the content of that sound, such as, but not limited to comprehensible musical rhythms, is communicated to a person using his or her unaided hearing faculties. For the purposes of the enforcement of this code, the detection of any component of music, including but not limited to the rhythmic bass by a person using his or her unaided hearing faculties is sufficient to verify plainly audible sound. It is not necessary for such person to determine the title, specific words or artist of such music. In the case of motor vehicles the detection of the sound of a muffler or of an exhaust by a person using his or her unaided hearing faculties is sufficient to verify plainly audible sound. Plainly audible sound does not require measurement with a sound level meter.

(45) Power tool means any device powered mechanically, by electricity, by gasoline, by diesel fuel or by any other fuel, which is intended to be used or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling.

(46) Public right-of-way means a public highway, road, street, avenue, alley, driveway, path, sidewalk, roadway or any other public place or public way.

(47) Railroad means a railroad, other than a rapid transit railroad or street railroad, operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities used, operated or owned by or in connection therewith.

(48) Rapid transit railroad means a rapid transit railroad used for local service in the transportation of passengers

as a common carrier for hire together with the appurtenances, facilities and equipment thereof.

(49) Receiving property means real property, including but not limited to buildings, grounds, offices and dwelling units, from which sound levels from sound sources outside such property may be measured. For the purposes of this definition, individual offices or dwelling units within a building may constitute a receiving property.

(50) Refuse collection vehicle means a motor vehicle designed or used to remove, collect, or transport refuse, solid waste or recyclables.

(51) Sound means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g., elastic, viscous), or the superposition of such propagated oscillation which evokes an auditory sensation.

(52) Sound level meter means any instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner and which complies with standards established by the Amercian National Standards Institute specifications for sound level meters S1.4-1971, as amended or S1.4-1983, as amended.

(53) Sound pressure level (decibels) means an expression of the acoustic pressure calculated as twenty times the logarithm to the base ten of the ratio of the root mean square of the pressure of the sound to the reference pressure, 20 micropascals.

(54) Sound reproduction device means a device intended primarily for the production or reproduction of sound, including but not limited to any musical instrument, radio receiver, television receiver, tape recorder, phonograph or electronic sound amplifying system.

(55) Sound signal means any sound produced by a sound signal device designed to transmit information.

(56) Sound signal device means a device designed to produce a sound signal when operated, including but not limited to any claxon, air horn, whistle, bell, gong, siren, but not an emergency signal device.

(57) Sound source means any activity or device that emits sound.

(58) This code means the New York city noise control code.

(59) Total sound level means that measured sound level that represents the combined sound level of the source or sources under investigation and the ambient sound level. Total sound level measurements shall exclude extraneous sound sources.

(60) Tunnel means an underground passage which is intended for use as a railway, aqueduct, road, sewer or major utility artery.

(61) Tunneling means any activity necessary or incidental to the construction of any tunnel, including the sinking of shafts to tunnel or to an intermediate level and the surface activities required to sink the shafts and construct the tunnel.

(62) Unreasonable noise means any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable person of normal sensitivities, injures or endangers the health or safety of a reasonable person of normal sensitivities or which causes injury to plant or animal life, or damage to property or business.

(63) Refuse collection facility means any structure, building or other premises at which solid waste is received for the purpose of subsequent transfer to another location regardless of whether such solid waste is subject to any processing or reduction in volume at such structure, building or premises.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 2, eff. July 1, 2007.

Section added chap 907/1985 § 1

Subd. (hh) added L.L. 12/1996 § 1, eff. Feb. 20, 1996.

Subds. (ii)-(nn) relettered L.L. 12/1996 § 1, eff. Feb. 20, 1996 formerly subds (hh)-(mm)

Subd. (oo) added L.L. 12/1996 § 2, eff. Feb. 20, 1996.

Subds. (nn)-(bbb) relettered L.L. 12/1996 § 2, eff. Feb. 20, 1996.

Subd. (ccc) relettered L.L. 12/1996 § 2, eff. Feb. 20, 1996 formerly subd. (aaa) amended L.L. 18/1993 § 2, eff. Mar. 12, 1993.

Subd. (ddd) relettered L.L. 12/1996 § 2, eff. Feb. 20, 1996 formerly subd. (bbb).

Subd. (ddd) added L.L. 47/2001 § 1, eff. July 16, 2001.

Subd. (eee) relettered L.L. 12/1996 § 2, eff. Feb. 20, 1996 formerly subd. (ccc) added L.L. 110/1993 § 1, eff. Mar. 29, 1994.

DERIVATION

Formerly § 1403.3-1.05 added LL 57/1972 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 24-204

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-204 General powers of the commissioner.

(a) Subject to the provisions of this code, the commissioner may take such action as may be necessary to abate a sound source which causes or may cause, by itself or in combination with any other sound source or sources, an unreasonable or prohibited noise. The commissioner may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code.

(b) The commissioner shall promulgate such rules as are necessary to effectuate the purposes of this code, including, without limitation, rules setting forth specifications for the operation, installation, best available technology, or manufacture of sound generating equipment or devices, or sound mitigation equipment or devices.

(c) The commissioner shall promulgate such rules as are necessary with regard to standards and procedures to be followed in the measurement of sound pressure levels governed by the provisions of this code, provided that such standards and procedures are substantially in compliance with any similar standards and procedures promulgated by the American National Standards Institute, International Standards Organization, Society of Automotive Engineers, Compressed Air and Gas Institute, American Society of Heating, Refrigeration, and Air Conditioning Engineers, American Refrigeration Institute or any generally recognized professional standard-setting organization.

(d) The police department, as well as other agencies of the city designated by the commissioner, shall have the authority to enforce the provisions of this code and police officers and designated employees of the department and of

such other city agencies shall have the power to issue summonses, appearance tickets and notices of violation for violations of this code.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 3, eff. July 1, 2007.

Section amended L.L. 18/1993 § 3, eff. Mar. 12, 1993.

Section added chap 907/1985 § 1

DERIVATION

Subd. (b) formerly § 24-230 added chap 907/1985 § 1, formerly § 1403.3-4.23 added L.L. 57/1972 § 2.

Subd. (c) formerly § 24-242 added chap 907/1985 § 1, formerly § 1403.3-5.23 added L.L. 57/1972 § 2.

CASE NOTES FROM FORMER SECTION 1403.3-5.23

¶ 1. No action may be maintained against a person for unlawful noise pollution unless a specific decibel level has been promulgated by the administrator and the noise level exceeds that level.-People v. Markowitz, 102 Misc. 2d 575 [1979]

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-205

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-205 Investigations and studies by the commissioner.

(a) The commissioner may make or cause to be made any investigation or study which in his or her opinion is desirable for the purpose of enforcing this code or controlling or abating an unreasonable or prohibited noise. For such purposes, the commissioner may make tests, conduct hearings, compel the attendance of witnesses, and take their testimony under oath and may compel the production of books, papers and other things reasonably necessary to the matter under consideration.

(b) The commissioner shall study and propose strategies to control and/or reduce sound levels associated with airports, rapid transit and railroad operations and within twenty-four months of the effective date of this section shall report to the mayor his or her findings and recommendations, specifically identifying those recommendations that may only be implemented through state or federal legislation or rules.

(c) The commissioner, in conjunction with the police department, shall study noise abatement strategies for audible motor vehicle burglar alarms and within twenty-four months of the effective date of this section shall report to the mayor his or her findings and recommendations.

(d) The commissioner, in conjunction with the police department, shall study on an ongoing basis emerging technology in acoustical measurement and shall periodically report to the mayor his or her findings and recommendations regarding the testing and potential use of equipment for enforcement of this code. In conjunction

with such study, the commissioner may issue a request for expressions of interest to determine new and emerging technological solutions for accurate and efficient measurement of sounds as enumerated in this code.

(e) The commissioner shall study the impact of motor vehicle back-up warning devices installed on motor vehicles on ambient sound levels and within twenty-four months of the effective date of this section shall report to the mayor his or her findings and recommendations, specifically identifying those recommendations that may only be implemented through state or federal legislation.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 3, eff. July 1, 2007.

Section amended L.L. 18/1993 § 4, eff. Mar. 12, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.03 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-206

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-206 Testing by order of the commissioner.

(a) If the commissioner has reasonable cause to believe that any device is in violation of this code, the commissioner may order the owner of the device to conduct such tests as are necessary in the opinion of the commissioner to determine whether the device or its operation is in violation of this code and to submit the test results to the commissioner within ten days after the tests are completed.

(b) Such tests shall be conducted in a manner approved by the commissioner. If any part of the test is conducted at a place other than the site where the device is located, that part of the test shall be certified by a laboratory acceptable to the commissioner. The commissioner may require that the entire test results shall be reviewed and certified by (i) a professional engineer with acoustical experience as specified in the rules of the department or (ii) a noise consultant with qualifications of education and/or acoustical experience as set forth in the rules of the department.

(c) If in the opinion of the commissioner, tests by the department are necessary, the commissioner may order the owner to provide such access to the device as the commissioner may reasonably request, to provide a power source suitable to the points of testing, and to provide allied facilities, exclusive of sound level meter. These provisions shall be made at the expense of the owner of the device. The owner shall be furnished with copies of the analytical results of the data collected.

(d) If after the analysis of such testing, it is determined by the commissioner that such device or devices generate

sound levels that exceed the limits of this code, the commissioner may make recommendations for modifications and/or mitigation measures to bring such device or devices into compliance.

(e) The commissioner may issue a separate notice of violation for every 24-hour period of noncompliance with the orders of the commissioner issued pursuant to this section.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 3, eff. July 1, 2007.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.05 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-207

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-207 Inspection.

(a) The department may inspect at any reasonable time and in a reasonable manner any device which creates or may create unreasonable or prohibited noise including but not limited to the premises where the device is used.

(b) The department may inspect at any reasonable time and in a reasonable manner any record relating to a use of a device which creates or may create unreasonable or prohibited noise.

(c) No person shall refuse entry or access into the public areas of a multiple dwelling or a place of business to an authorized employee of the department or other authorized city employee who presents appropriate credentials, nor shall any person refuse entry or access into any other portion of a premises to an authorized employee of the department or other authorized city employee who presents appropriate credentials and a warrant for such inspection.

(d) No person shall refuse to allow an authorized employee of the department or other authorized city employee who presents appropriate credentials to perform reasonable sound testing on any device or devices, including but not limited to requiring the temporary shutting down of said device or devices for the purposes of such testing except that upon a showing that the inspection would produce a noticeable interruption of services that would cause discomfort to employees or customers or require a building engineer or other professional to work with the equipment, such authorized employee shall reschedule the inspection for a more convenient time.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 3, eff. July 1, 2007.

Section added chap 907/1985 § 1

Subds. (a), (b) amended L.L. 18/1993 § 5, eff. Mar. 12, 1993.

DERIVATION

Formerly § 1403.3-2.07 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-208

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-208 Registrations.

(a) The commissioner may require the written registration of air compressors, paving breakers, refuse compacting vehicles and rapid transit railroads, including but not limited to its rolling stock, track and trackbeds, passenger stations, circulation devices rated 300,000 BTUs or higher, tunnels, elevated structures, yards, depots and garages. A period of sixty days shall be allowed for the filing of such registration measured from the date such registration is required by the commissioner or with respect to devices installed after such requirement is instituted measured from the date of installation. However, in cases of emergency, the commissioner may designate a shorter period of time.

(b) Registration shall be made on forms furnished by the department. The forms may require information concerning the device covered by the registration, the sound level caused by the device or any additional information required by the commissioner for the purpose of enforcing this code. The registrant shall maintain the registration in current status by notifying the department of any change in any item of information furnished in compliance with this subdivision within a reasonable time not exceeding thirty days after the change is made.

(c) Registration shall be made by the owner of the device. If a registrant is a partnership or group other than a corporation, the registration shall be made by one individual who is a member of the group. If the registrant is a corporation, the registration shall be made by an officer of the corporation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 113/2005 § 4, eff. July 1, 2007.

DERIVATION

Formerly § 1403.3-2.09 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-209

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-209 Interfering with or obstructing department personnel.

No person shall interfere with or obstruct the commissioner or any department employee in carrying out any duty for the commissioner or the board.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.11 added LL 57/1972 § 2

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NYC Administrative Code 24-210

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-210 False and misleading statements; unlawful reproduction or alteration of documents.

(a) No person shall knowingly make a false or misleading statement or submit a false or misleading document to the department as to any matter within the jurisdiction of the department.

(b) No person shall make, reproduce or alter or cause to be made, reproduced or altered a tunneling permit, certificate or other document issued by the commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.13 added LL 57/1972 § 2

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NYC Administrative Code 24-211

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-211 Display of permits and certificates.

Any tunneling permit or certificate required by this code shall be displayed in the vicinity of the device on the premises designated on the tunneling permit or certificate or in the vicinity of the place where the device will be operated or supervised.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 5, eff. July 1, 2007.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.15 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-212

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-212 Enforcement of code by other than compulsory means.

Nothing in this code shall prevent the commissioner from making efforts to obtain voluntary compliance by way of warning, notice or educational means. However, such noncompulsory methods need not be used before proceeding by way of compulsory enforcement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.17 added LL 57/1972 § 2

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NYC Administrative Code 24-213

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-213 Service of papers.

(a) Service of any written notice, order or decision required by this code shall be made on the owner as follows:

(1) Either by mailing the notice, order or decision directed to the owner of the device at the address listed in his or her application, tunneling permit or operating certificate or at the address where the device is located; or

(2) By leaving the notice, order or decision with the owner of the device, or if the owner is not an individual, with a member of the partnership or group concerned or with an officer or managing agent of the corporation.

(b) Service of any written notice, order or decision required by this code shall be made on a person:

(1) Either by mailing the notice, order or decision directed to the person at his or her principal place of business or home address; or

(2) By leaving the notice, order or decision with the person, or if the person is not an individual, with a member of the partnership or group concerned, or with an officer or managing agent of the corporation.

(c) Service of any written notice required by this code shall be made on the department, commissioner or board as follows:

(1) Either by mailing the notice to the commissioner; or

(2) By leaving the notice at the department or with an employee of the department designated for this purpose.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) par (1) amended L.L. 113/2005 § 6, eff. July 1, 2007.

DERIVATION

Formerly § 1403.3-2.19 added LL 57/1972 § 2

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NYC Administrative Code 24-214

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-214 Inconsistent provisions.

Insofar as the provisions of this code are inconsistent with any provision of any other title of the code, or any rule or regulation of any governmental agency of the city of New York, the provisions of this code shall be controlling.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.21 added LL 57/1972 § 2

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NYC Administrative Code 24-216

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-216 Noise abatement contract compliance.

(a) (1) Contract. As used in this section, the term "contract" means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds authorized by the capital budget of the city of New York in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing; however, the term "contract" shall not include:

(i) contracts for financial or other assistance made with a government;

(ii) contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the city, or consisting thereof;

(iii) employment by the city of officers and employees of the city.

(2) Contracting agency. As used in this section, the term "contracting agency" means any board, bureau, department, commission or other agency of the government of the city of New York, or any official thereof, who or which is authorized to and does, on behalf of the city, provide for, enter into, award or administer contracts or any other public agency which enters into, awards or administers contracts pursuant to which funds authorized by the capital budget of the city of New York are expended.

(b) Contract provisions. No contract shall be awarded or entered into by a contracting agency, unless such contract contains provisions requiring that:

1. Devices and activities which will be operated, conducted, constructed or manufactured pursuant to the contract and which are subject to the provisions of the code will be operated, conducted, constructed or manufactured without causing a violation of the code; and

2. Such devices and activities incorporate advances in the art of noise control developed for the kind and level of noise emitted or produced by such devices and activities.

(c) Regulations. The commissioner may from time to time promulgate regulations setting forth such specifications for the operation, conducting, construction or manufacture of devices and activities pursuant to city contracts as he or she deems necessary to comply with the provisions of this section.

(d) No person shall cause or permit the operation of a device or conducting of an activity in such a way as to violate any provision of a contract required by this section or any regulation promulgated pursuant to this section.

(e) No regulations promulgated pursuant to this section shall alter the terms, conditions and specifications of a contract for which bids have been opened, at the time of issuance of such regulation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.25 added LL 57/1972 § 2

Amended LL 86/1973 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-217

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-217 Exemptions.

The provisions of this code shall not apply to the operation or use of any organ, bell, chimes or other similar instrument from on or within any church, synagogue, mosque or other house of worship.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 7, eff. July 1, 2007.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-2.27 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-217.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 2 GENERAL PROVISIONS

§ 24-217.1 Measurements.

Unless otherwise specifically provided, all sound level measurements under this code shall be taken in Lmax with the sound level meter set to slow response.

HISTORICAL NOTE

Section added L.L. 113/2005 § 8, eff. July 1, 2007.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-218

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 3 PROHIBITED NOISE; GENERAL PROHIBITION

§ 24-218 General prohibitions.

(a) No person shall make, continue or cause or permit to be made or continued any unreasonable noise.

(b) Unreasonable noise shall include but shall not be limited to sound, attributable to any device, that exceeds the following prohibited noise levels:

(1) Sound, other than impulsive sound, attributable to the source, measured at a level of 7 dB(A) or more above the ambient sound level at or after 10:00 p.m. and before 7:00 a.m., as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

(2) Sound, other than impulsive sound, attributable to the source, measured at a level of 10 dB(A) or more above the ambient sound level at or after 7:00 a.m. and before 10:00 p.m., as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

(3) Impulsive sound, attributable to the source, measured at a level of 15 dB(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response. The ambient sound level shall be taken in the A-weighting network with the sound level meter set to slow response.

(c) Notwithstanding the provisions of subdivision b of this section, where a particular sound source or device is subject to decibel level limits and requirements specifically prescribed for such source or device elsewhere in this code, the decibel level limits set forth in this section shall not apply to such sound source or device.

(d) The decibel level limits set forth in this section shall not apply to sound attributable to construction devices and activities.

(e) Where the commissioner finds that sound from any refuse collection facility regulated by the department of sanitation exceeds the decibel level limits set forth in this section, the commissioner shall order the operator of such facility to submit a certification by a professional engineer as to whether or not the facility is in compliance with the noise standards required by the department of sanitation rules (16 RCNY Ch. 4) and if not in compliance, the mitigation measures that will be undertaken to bring such facility into compliance. The testing and certification must be submitted to the department and to the department of sanitation within forty-five days after the issuance of such order. A facility that complies with an order issued pursuant to this section and with any required mitigation measures shall be deemed to be in compliance with the decibel limits of this section. With respect to any refuse collection facility owned or operated by the department of sanitation such facility shall be deemed to be in compliance with the decibel level limits of this section if it is in compliance with a best management practices plan developed in conjunction with the department. A notice of violation may only be issued for a refuse collection facility pursuant to this section where the operator of such facility fails to comply with an order of the commissioner issued pursuant to this subdivision or the mitigation measures set forth in a certification.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 9, eff. July 1, 2007.

Section amended L.L. 18/1993 § 6, eff. Mar. 12, 1993.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-3.01 added LL 57/1972 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Condition of sentence of defendant's conditional discharge upon his conviction of violating city's noise code for playing music too loudly that he maintain his music at a "reasonable level" was not too vague a standard to follow such a directive being readily comprehensible to a person of average intelligence.-People v. Stefanik, 103 Misc. 2d 539 [1980].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-218.1

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Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 3 PROHIBITED NOISE; GENERAL PROHIBITION

§ 24-218.1 Use of mobile telephones restricted in a place of public performance.

a. Definitions. For purposes of this section:

(1) The term "mobile telephone" shall mean a cellular, analog, wireless, digital or other similar telephone or communications device, which can be used to access two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 CFR §20.3.

(2) The term "use" shall mean to receive a mobile telephone call signaled by an audible sound, dial a mobile telephone, or talk or listen on a mobile telephone.

(3) The term "place of public performance" shall mean the area, room, or chamber of any indoor theatre, library, museum, gallery, motion picture theatre, concert hall, or building in which theatrical, musical, dance, motion picture, lecture, or other similar performances are exhibited. This term shall not include any area or venue in which professional or amateur sporting events are taking place.

b. No person shall use a mobile telephone in a place of public performance while a theatrical, musical, dance, motion picture, lecture or other similar performance is taking place.

c. Exception. The provisions of this section shall not apply to an individual who uses a mobile telephone to contact an emergency response operator, hospital, physician's office or health clinic, ambulance company, fire company, first aid squad or police department in an emergency situation or in any other circumstance which may be deemed an emergency.

d. Notice to patrons. (1) The owner, operator, manager or other person having control of any place of public performance shall, at every theatrical, musical, dance, motion picture, lecture or other similar performance, provide prominent and conspicuous notice to patrons by means of announcement, signage, printed material, or other similar means indicating that mobile telephone use is prohibited as prescribed in subdivision b of this section. The commissioner of environmental protection may promulgate rules regarding the size, style and location of such notices, but in promulgating such rules, the commissioner of environmental protection shall take into consideration the concerns of the various types of establishments regulated herein with respect to the style and design of such notices.

(2) In addition, the owner, operator, manager or other person having control of any motion picture theatre in which motion pictures are exhibited to the public shall, prior to the showing of each feature motion picture, show upon the movie screen information indicating that mobile telephone use is prohibited as prescribed in subdivision b of this section.

HISTORICAL NOTE

Section added L.L. 9/2003 § 1, eff. Apr. 13, 2003.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-219

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-219 Noise mitigation rules.

(a) The commissioner shall adopt rules prescribing noise mitigation strategies, methods, procedures and technology that shall be used at construction sites whenever any one or more of the construction devices or activities listed below are employed or performed:

(1) air compressors.

(2) pile drivers.

(3) sledgehammers.

(4) bulldozers.

(5) pneumatic hammers.

(6) steam shovels.

(7) derricks.

(8) cranes.

(9) steam or electric hoists.

(10) off-road construction vehicles other than trucks.

(11) pumps.

(12) pneumatic tools.

(13) blasting.

(14) power tools.

(15) tunneling machines.

(16) construction devices with internal combustion engines.

(17) construction devices that emit impulsive sound.

(18) construction devices that create vibration.

(19) metal plates used in street construction to temporarily cover excavations.

(20) any other construction devices or activities specified in such rules.

(b) Such rules shall include but shall not be limited to:

(1) The use of perimeter fences with acoustical insulation, where appropriate.

(2) The use of portable barriers with acoustical insulation, where appropriate.

(3) The use of acoustical blanket insulation, where appropriate.

(4) Testing of exhaust mufflers and certification, in a form and manner to be specified in the rules, that mufflers meet factory specifications for noise emissions at maximum loading at the commencement of construction at the site.

(5) The development of generic noise mitigation plans, where appropriate.

(6) Additional mitigation measures for sensitive receptors such as hospitals and schools, where appropriate.

(c) The commissioner shall appoint an advisory committee, which shall include, but shall not be limited to, representatives of utility companies and the construction industry, including those industries related to heavy construction, persons with acoustical expertise and/or expertise regarding the health effects of noise, a representative of the city council and employees of the department and of other relevant city agencies. The committee shall provide advice and recommendations to the department relating to construction noise mitigation and shall assist the department in the development of the noise mitigation rules required by this section. The commissioner shall consult with the committee regarding any proposed amendments of such rules. In the development of such rules the commissioner shall consider factors such as the availability, cost and safety of proposed noise mitigation measures.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007. [See Note 1]

DERIVATION

Formerly § 24-224 Construction activities added chap 907/1985 § 1

Subd. (a) amended L.L. 101/1991 § 1, eff. Dec. 24, 1991

Subd. (a) amended L.L. 91/1991 § 1, eff. Nov. 26, 1991

Subd. (a) amended L.L. 7/1991 § 1, eff. Jan. 24, 1991

Subd. (b) amended L.L. 41/1987 § 1

Formerly § 1403.3-4.11 added LL 57/1972 § 2

NOTE

1. Provisions of L.L. 113/2005:

§ 16. All actions and proceedings, civil or criminal, or administrative proceedings commenced under or by virtue of any provision repealed by this local law and pending immediately prior to the taking effect of such repeal may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

§ 17. On or prior to January 1, 2007 the commissioner of environmental protection shall promulgate noise mitigation rules in accordance with section 24-219 of the administrative code, as added by section 10 of this local law.

§ 18. This local law shall take effect on July 1, 2007 provided that prior to such effective date agencies may promulgate rules or take other administrative actions necessary for the timely implementation of this local law including the appointment of any advisory committee and provided further that section 17 of this local law shall take effect immediately upon its enactment into law [Enacted Dec. 29, 2005].

CASE NOTES FROM FORMER SECTION

¶ 1. Finding of Environmental Control Board that the term "weekday" in subdivision (a) of this section which prohibits construction work except during certain designated hours on week days does not include Saturday was not unreasonable.-Civetta & Sons v. Environmental Control Bd., 116 Misc. 2d 602 [1982].

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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***** Current through December 2009 ****

NYC Administrative Code 24-220

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-220 Noise mitigation plan.

(a) Each person, corporation or other business entity performing construction work in the city shall adopt and implement a noise mitigation plan for each construction site in accordance with the provisions of this subchapter and such rules whenever any one or more of the construction devices or activities listed above or in the department's rules are employed or performed at the site.

(b) Such plan shall be adopted prior to the commencement of construction at the site or, with respect to emergency work, as defined in the department's rules, within three days thereafter, and shall apply to all work at the site throughout the construction process. The plan shall provide in detail the noise mitigation strategies, methods, procedures and technology, as prescribed in the rules of the department or specifically approved by the commissioner in accordance with section 24-221 of this code, for each device or activity employed or performed at the site. Each permit holder or other person in charge of such construction site will be accountable for compliance with such rules and shall ensure that each person performing construction work at the site shall be aware of the plan and shall be responsible for complying with those provisions that affect his or her work.

(c) A copy of the plan shall be kept at the construction site and shall be made available for inspection upon the request of persons authorized to enforce the provisions of this code.

(d) The plan shall be amended whenever additional devices or activities unforeseen at the commencement of

construction are employed at the site or at the direction of the commissioner in accordance with section 24-223 of this subchapter.

(e) A plan need not be filed with or approved by the department prior to the commencement of construction if it conforms in all respects to the rules of the department with respect to construction devices and activities employed or performed at the construction site. A plan that deviates in any respect from such rules or an alternative noise mitigation plan required to be certified in conjunction with a undue hardship application pursuant to paragraph (5) of subdivision (e) of section 24-223 shall be subject to the prior approval of the commissioner in accordance with section 24-221 of this code.

(f) This section shall not apply to construction work in connection with the alteration or repair of an existing one or two family owner-occupied dwelling classified in occupancy group J-3 or a convent or rectory.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See Derivation for § 24-219

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-221

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Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-221 Alternative noise mitigation plan.

(a) Upon application, the commissioner may approve an alternative noise mitigation plan for a particular construction site that deviates from strict compliance with the noise mitigation rules. Application for approval of such plan shall be submitted to the department at least ten business days prior to the commencement of construction or as soon as practicable but no later than 24 hours prior to the commencement of construction in a form and manner and accompanied by such information and documentation as shall be set forth in the rules of the department. The commissioner may approve such alternative noise mitigation plan if he or she finds that:

(1) strict compliance with the noise mitigation rules would not be possible or would create an undue hardship because of the location or unique characteristics of the site or of the construction devices or activities to be employed or performed at the site; and

(2) the alternative noise mitigation strategies, methods, procedures or equipment proposed are consistent with the purposes and policies of this code.

(b) Notwithstanding the foregoing provisions, with respect to construction sites where construction is performed pursuant to a permit issued prior to the effective date of this section or in the case of construction by or on behalf of a city agency where construction is performed under a contract bid out prior to the effective date of this section, application for approval of an alternative noise mitigation plan may be submitted within 60 days after the effective date

of this section. The commissioner may approve such plan if he or she finds that:

(1) strict compliance with the noise mitigation rules would not be possible or would create an undue hardship because of the location or unique characteristics of the site or of the construction devices or activities employed or performed at the site, or

(2) strict compliance with such rules would be unreasonable or unduly burdensome with respect to construction work that is imminent or ongoing on the effective date of this section, or

(3) with respect to city construction projects, the implementation of contract modifications to achieve strict compliance with such rules would result in unreasonable delay and/or increased expenditure for a necessary public improvement, and

(4) the alternative noise mitigation strategies, methods, procedures or equipment proposed are consistent with the purposes and policies of this code.

(c) Where the commissioner rejects an alternative noise mitigation plan, an applicant may appeal such rejection in accordance with the rules of the department. An alternative plan shall not be in effect unless and until it has been approved by the commissioner except that where a timely alternative plan has been filed with the commissioner for approval, a construction site in compliance with such alternative plan shall be deemed to be in compliance with this section unless and until such plan is rejected by the commissioner and for a reasonable time thereafter as determined by the commissioner.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See Derivation for § 24-219

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-222

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-222 After hours and weekend limits on construction work.

Except as otherwise provided in this subchapter, it shall be unlawful to engage in or to cause or permit any person to engage in construction work other than on weekdays between the hours of 7 a.m. and 6 p.m. A person may however perform construction work in connection with the alteration or repair of an existing one or two family owner-occupied dwelling classified in occupancy group J-3 or a convent or rectory on Saturdays and Sundays between the hours of 10 a.m. and 4 p.m. provided that such dwelling is located more than 300 feet from a house of worship.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See Derivation for § 24-219

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-223 After hours work authorization.

(a) Notwithstanding section 24-222 of this subchapter, an agency authorized to issue permits for construction work may, along with such permit, issue an after hours work authorization for the work site. Such after hours authorization may permit construction work to be performed at the site before 7 a.m. or after 6 p.m. on weekdays and/or on Saturdays and/or Sundays subject to the conditions and restrictions set forth in this section.

(b) The agency issuing such authorization must obtain a certification from its permittee that the permittee has developed a noise mitigation plan for the site in accordance with this subchapter and that such plan is in compliance with the noise mitigation rules. In the case of emergency work such certification shall be submitted within 3 days after the commencement of the work.

(c) If after hours work at the site is not being performed in compliance with such plan or where no plan is in effect, the department or the agency issuing such authorization, at the request of the commissioner or on its own account, may take appropriate action, including but not limited to the refusal to renew such after hours authorization.

(d) Where there is full compliance with the noise mitigation plan yet nevertheless aggregate sound levels from the site where an after hours authorization is in effect exceed 8dB(A) above the ambient sound level as measured in any residential receiving property dwelling unit (with windows and doors that may affect the measurement closed), the commissioner may request the person performing the work to confer with representatives of the department regarding

additional noise mitigation measures that may be employed at the site to reduce aggregate sound levels. After such conference the commissioner may direct amendment of the noise mitigation plan for the site. Failure to respond to a request for a conference or to amend the noise mitigation plan within the time prescribed in a notice issued by the department shall be a violation of this code.

(e) Authorization for after hours construction work may only be issued in the following circumstances:

(1) Emergency work. Agencies shall authorize such after hours construction work for emergency conditions, inside or outside the property line, involving a threat to public safety or causing or likely to cause the imminent interruption of service required by law, contract or franchise. An emergency authorization issued pursuant to this paragraph shall expire as determined by the agency but no later than the ninetieth day after its issuance and shall be renewable in accordance with agency procedures while the emergency continues.

(2) Public safety. Agencies may authorize such after hours work, inside or outside of the property line, where the agency determines that the work cannot reasonably or practicably be performed on weekdays between the hours of 7 a.m. and 6 p.m. because of traffic congestion and/or concern for worker and/or public safety. An authorization issued pursuant to this paragraph shall expire as determined by the agency but no later than the ninetieth day after its issuance and shall be renewable in accordance with agency procedures.

(3) City construction projects. Agencies may authorize after hours work by or on behalf of city agencies for projects that are judicially mandated or the subject of consent orders and/or where a project is necessary in the public interest including but not limited to facilities, equipment, and infrastructure for the provision of water, sewerage, sanitation, transportation and other services necessary for the health or safety of the public. An authorization issued pursuant to this paragraph for a city construction project shall remain in effect for the duration of the project.

(4) Construction activities with minimal noise impact. The commissioner shall promulgate rules setting forth a list of construction activities with minimal noise impact and specific noise mitigation measures applicable to such activities. Agencies may authorize the performance of such construction activities after hours in accordance with such rules.

(5) Undue hardship. Agencies may authorize after hours work if the commissioner certifies that the permit holder has substantiated a claim of undue hardship resulting from unique site characteristics, unforeseen conditions, scheduling commitments and/or financial considerations outside the control of the permit holder and that the applicant has received approval from the department of an alternative noise mitigation plan pursuant to section 24-221 of this subchapter, specifying the activities and devices that will be used for such after hours construction and setting forth the additional mitigation measures, above and beyond those measures otherwise required for such devices and activities pursuant to the department's rules, that the applicant will use to significantly limit noise emissions from the site of such after hours work. Applications for such certification shall be submitted to the department in a form and manner to be set forth in the rules of the department. The applicant for an after hours authorization under this paragraph shall submit such certification to the issuing agency.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See Derivation for § 24-219

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-224

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 4*12 CONSTRUCTION NOISE MANAGEMENT

§ 24-224 Construction work without noise mitigation plan unlawful.

It shall be unlawful to perform work at any construction site in the city that is not in compliance with a noise mitigation plan where such plan is required pursuant to this subchapter and with the noise mitigation rules adopted pursuant to this subchapter. Notwithstanding any other provision of this code, construction work performed in accordance with a noise mitigation plan that is in full compliance with this subchapter and such rules shall be deemed to be in compliance with all decibel level limits set forth in other subchapters of this code. The provisions of this subchapter shall supercede all other provisions of this code relating to construction activities or devices that are inconsistent with or in conflict therewith.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See Derivation for § 24-219

FOOTNOTES

12

[Footnote 12]: * Subchapter 4 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-225

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-225 Refuse collection vehicles.

(a) No person shall sell, offer for sale, operate or permit to be operated a refuse collection vehicle, equipped with a compacter, that produces a maximum sound level when the compacting mechanism is in the compacting cycle but not engaged in compacting a load that exceeds 80 dB(A), when measured by a sound level meter set for slow response at a distance of 35 feet or more from the compacting unit.

(b) It shall be unlawful to operate or cause to be operated a refuse collection vehicle, including such a vehicle equipped with a compacter, within 50 feet of any residential receiving property at or after 11:00 p.m. and before 7:00 a.m. if the aggregate sound, not including impulsive sound, generated by the collection and compacting activities exceeds 85 dB(A) when measured by a sound level meter set to slow response at a distance of 35 feet or more from the vehicle. On and after July 1, 2012 such aggregate sound shall not exceed 80 dB(A). The provisions of this subdivision shall not apply to the operation of refuse collection vehicles during an emergency such as a storm or other event that causes delays in refuse collection.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-238 added chap 907/1985 § 1

Formerly § 1403.3-5.15 added LL 57/1972 § 2

Amended LL 15/1975 § 1

Amended LL 42/1976 § 1

Amended LL 19/1978 § 1

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-226

Administrative Code of the City of New York

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-226 Air compressors.

(a) No person shall operate or cause to be operated an air compressor unless it is equipped with an appropriate muffler with no exhaust leaks.

(b) No person shall sell, offer for sale for use within the city of New York, or operate or permit to be operated an air compressor that, when operated, produces a maximum sound level, when measured at a distance of one meter or more from the nearest major surface of such air compressor, exceeding 80 dB(A) for sizes greater than 350 cfm or exceeding 75 dB(A) for sizes 350 cfm or less.

(c) Except for construction work outside the property line on a public right-of-way, no person shall operate or permit to be operated an air compressor so as to generate sound levels in excess of 75 dB(A) as measured at any receiving property.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-236 added chap 907/1985 § 1

Formerly § 1403.3-5.11 added LL 57/1972 § 2

Sub b Table II repealed and added LL 20/1974 § 1

Sub c amended LL 37/1976 § 1

Sub d amended LL 107/1977 § 1

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-227

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-227 Circulation devices.

(a) No person shall operate or permit to be operated a circulation device in such a manner as to create a sound level in excess of 42 dB(A) when measured inside a receiving property dwelling unit. The measurement shall be taken with the window or terrace door open at a point three feet from the open portion of the window or terrace door.

(b) On and after the effective date of this section, when a new circulation device is installed on any building lot or an existing device on any building lot is replaced, the cumulative sound from all circulation devices on such building lot owned or controlled by the owner or person in control of the new device being installed or the existing device being replaced shall not exceed 45 dB(A), when measured as specified in subdivision a of this section. For a period of two years after the effective date of this section, this subdivision shall not apply to the replacement of a circulation device that was installed on any building lot prior to the effective date of this section by a device of comparable capacity.

(c) Except as otherwise provided in subdivision b of this section, with respect to circulation devices installed on any building lot prior to the effective date of this section, the sound level limit of 42 dB(A) referred to in subdivision a of this section shall apply to each individual device except that if the cumulative sound from all devices owned or controlled by the same person on a building lot exceeds 50 dB(A), when measured as specified in subdivision a of this section, the commissioner may order the owner or person in control of such devices to achieve a 5 dB(A) reduction in such cumulative sound level within not more than 12 months after the issuance of such order.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-237 amended LL 56/1987 § 1, added chap 907/1985 § 1

Formerly § 1403.3-5.13 added LL 57/1972 § 2

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-228

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-228 Construction, exhausts and other devices.

(a) No person shall operate or use or cause to be operated or used a construction device or combination of devices in such a way as to create an unreasonable noise. For the purposes of this section unreasonable noise shall include but shall not be limited to sound that exceeds the following prohibited noise levels:

(1) Sound, other than impulsive sound, attributable to the source or sources, that exceeds 85 dB(A) as measured 50 or more feet from the source or sources at a point outside the property line where the source or sources are located or as measured 50 or more feet from the source or sources on a public right-of-way.

(2) Impulsive sound, attributable to the source, that is 15 dB(A) or more above the ambient sound level as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response. The ambient sound level shall be taken in the A-weighting network with the sound level meter set to slow response.

(b) Where a particular sound source or device is subject to decibel level limits and requirements specifically prescribed for such source or device elsewhere in this code, such specific decibel limits shall apply to such device or source. However, if aggregate sound levels from a construction site exceed the limits set forth in this section, compliance with such specific decibel limits shall not be a defense in any proceeding relating to a violation of this

section.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-225 amended L.L. 18/1993 § 13, eff. Mar. 12, 1993, added chap 907/1985 § 1

Formerly § 1403.3-4.13 added LL 57/1972 § 2

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-228.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-228.1 Exhausts.

No person shall cause or permit discharge into the open air of the exhaust of any device, including but not limited to any steam engine, diesel engine, internal combustion engine, power tools, compressors or turbine engine, so as to create an unreasonable noise. For the purposes of this section unreasonable noise shall include but shall not be limited to sound that exceeds the prohibited noise levels set forth in section 24-228.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-227 amended L.L. 18/1993 § 15, eff. Mar. 12, 1993, added chap 907/1985 § 1

Formerly § 1403.3-4.17 added LL 57/1972 § 2

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-229

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SUBCHAPTER 5*29 PROHIBITED NOISE SPECIFIC NOISE SOURCES-SOUND LEVEL STANDARD

§ 24-229 Containers and construction material.

(a) No person shall handle or transport or cause to be handled or transported on any public right-of-way any container or any construction material in such a way as to create an unreasonable noise. For the purposes of this section unreasonable noise shall include but shall not be limited to the following prohibited noise levels:

(1) Sound, other than impulsive sound, attributable to the source measured at a level of 10 dB(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way.

(2) Impulsive sound, attributable to the source, measured at a level of 15 dB(A) or more above the ambient sound level, as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response. The ambient sound level shall be taken in the A-weighting network with the sound level meter set to slow response.

(b) This section shall not apply to the operation of refuse collection vehicles regulated pursuant to section 24-225.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-226 amended L.L. 18/1993 § 14, eff. Mar. 12, 1993, added chap 907/1985 § 1

Formerly § 1403.3-4.15 added LL 57/1972 § 2

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-230

Administrative Code of the City of New York

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§ 24-230 Paving breakers.

(a) No person shall operate or cause to be operated a paving breaker, other than one operated electrically or hydraulically, unless a pneumatic discharge muffler certified by the manufacturer of such muffler to provide a dynamic insertion loss of 5 dB(A) of the sound released from the air discharge of such paving breaker is installed on such air discharge.

(b) No person shall sell, offer for sale for use within the city of New York, operate or permit to be operated a paving breaker that when operated produces a maximum sound level that exceeds 95 dB(A), when measured at a distance of one meter or more from a face of such paving breaker.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-241 added chap 907/1985 § 1

Formerly § 1403.3-5.21 added LL 57/1972 § 2

Sub b amended LL 37/1976 § 2

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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§ 24-231 Commercial music.

(a) No person shall make or cause or permit to be made or caused any music originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound attributable to such music, as measured inside any receiving property dwelling unit:

(1) is in excess of 42 dB(A) as measured with a sound level meter; or

(2) is in excess of 45 dB in any one-third octave band having a center frequency between 63 hertz and 500 hertz (ANSI bands numbers 18 through 27, Inclusive), in accordance with American National Standards Institute standard S1.6-1984; or

(3) causes a 6 dB(C) or more increase in the total sound level above the ambient sound level as measured in decibels in the "C" weighting network provided that the ambient sound level is in excess of 62 dB(C).

(b) (1) The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within 30 days after the issuance of such violation or, if applicable, within the time granted by the commissioner pursuant to paragraph two of this subdivision, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that (i) permanent improvements or modifications have been made to the

establishment, including but not limited to the installation of appropriate sound insulation, isolators, suspension mounting and/or sound mitigation devices or materials and (ii) appropriate sound measurements taken in accordance with the department's rules substantiate that the establishment is in full compliance with the sound levels set forth in this section. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.

(2) Where the completion of appropriate permanent improvements or modifications and testing within 30 days after the issuance of the violation would cause the respondent undue hardship, the respondent may apply to the commissioner for additional time to submit an appropriate certification of compliance, but not more than 30 days. Application for such additional time must be submitted to the commissioner within 30 days after the issuance of the violation along with an admission of liability and appropriate documents in support of the claim of undue hardship.

(3) Nothing in this subdivision shall be construed to prohibit enforcement personnel from issuing additional notices of violation, summonses or appearance tickets where sound levels exceed the limits set forth in subdivision a of this section during the periods of time set forth in paragraphs one and two of this subdivision for submission of a certification of compliance for a first violation.

(c) In any proceeding under this section it shall be an affirmative defense that the receiving property dwelling unit was not lawfully occupied at the time of the violation.

(d) The commissioner may grant a variance from strict application of the limits set forth in subdivision (a) of this section for a commercial establishment or enterprise that was in operation at the same site prior to the date of enactment of the local law that added this section if he or she finds that there are practical difficulties or unnecessary hardship in the application of such provisions in the specific case, provided that as a condition to the grant of any such variance, sufficient evidence or data is submitted by an applicant that there are physical conditions or zoning district conditions, including irregularity in lot size characteristics and zoning changes, and that as a result of such physical or zoning district conditions, practical difficulties or unnecessary hardship arise in complying with such provisions. In granting a variance the commissioner may impose such terms and conditions as he or she deems necessary to carry out the intent of this section to minimize noise emissions from the site. Application for a waiver shall be submitted in such form and manner as shall be provided by rules of the department and shall include in detail proposed measures which the applicant proposes will minimize sound from the site. A variance granted pursuant to this subdivision shall not be transferable but shall expire upon a change in ownership, size or location of the commercial establishment or enterprise in accordance with the rules of the department. Violation of the conditions of any variance shall be deemed to be a violation of this section.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-241.1 added LL 92/1985 § 2

(Legislative findings, music and noise control)

(Section number supplied by Legislative Bill Drafting Commission)

Subd. (b) amended LL 56/1987 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. A landlord obtained a court injunction which restricted musical performances at plaintiff tenant's coffee house to string instruments and piano. The court held that the injunction violated the First Amendment rights of the instrumental musical performers in tenant's coffee house. Since the New York City noise regulations, Adm. Code §25-241.1, limit the permissible volume of sound audible within a building outside of the room where amplified music is played, without regard to the instruments used, the preliminary injunction deprived the musicians of their right to freedom of expression, as well as economic opportunities, without furthering a legitimate state interest. Morris v. 702 East Fifth Street HDFC, 778 N.Y.S.2d 20, 8 A.D.3d 27 (1st Dept. 2004).

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-232

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§ 24-232 Allowable decibel levels-octave band measurement.

(a) No person shall cause or permit a sound source operating in connection with any commercial or business enterprise to exceed the decibel levels in the designated octave bands shown below as measured within a receiving property as specified therein.

Octave Band Maximum Sound Pressure Levels (dB) as measured within a receiving property as specified below _____

Frequency (Hz) Residential receiving property for mixed use buildings and residential buildings (as measured within any room of the residential portion of the building with windows open, if possible). Commercial receiving property (as measured within any room containing offices within the building with windows open, if possible).

31.5 70 74

63 61 64

125 53 56

Table **(Continued)**

250 46 50

500 40 45

1000 36 41

2000 34 39

4000 33 38

8000 32 37

(b) All sources that are within the A-scale limits prescribed by any other section of this code must also comply with the octave band decibel levels as specified herein. Compliance with this section does not constitute a defense to violation of decibel limits set by any other section of this code.

(c) Measurements performed on residential property shall not be taken in non-living areas such as closets and crawlspaces.

(d) This section shall not apply to impulsive sound, music or construction devices or activities.

(e) This section shall not apply to any utility structure in existence prior to January 1, 2004. For the purposes of this subdivision the term "utility structure" means any electric substation owned or operated by an electric, gas, or steam utility subject to the jurisdiction of the New York state public service commission.

(f) This section shall not apply to any refuse collection facility owned, operated or regulated by the department of sanitation.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly §§ 24-243, 24-244 added chap 907/1985 § 1

Formerly §§ 1403.3-6.01, 1403.3-6.03 added LL 57/1972 § 2

Repealed and added LL 64/1979 § 1

Sub b par 1 subpar d amended LL 75/1982 § 12

FOOTNOTES

29

[Footnote 29]: * Subchapter 5 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-233

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-233 Personal audio devices.

(a) No person shall operate or use or cause to be operated or used any personal audio device in such a manner as to create an unreasonable noise.

(b) For the purposes of this section unreasonable noise shall include but shall not be limited to:

(1) the operation or use of a personal audio device on or in any public right-of-way so that sound emanating from such device is plainly audible to another individual at a distance of 25 feet or more from the source.

(2) the operation or use of a personal audio device from on or inside a motor vehicle, whether moving, parked, stopped or standing, on or in any public right-of-way so that sound emanating from such device is plainly audible to another individual outside of such motor vehicle at a distance of 25 feet or more from the source.

(c) Nothing in this section shall be construed to permit the operation or use of a personal audio device where such operation or use would otherwise be prohibited pursuant to section 10-108 or 24-244 of the administrative code.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

FOOTNOTES

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[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-234

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-234 Operation or use of sound reproduction device in or on rapid transit railroad, omnibus or ferry.

It shall be unlawful to operate or use a sound reproduction device in or on any rapid transit railroad, omnibus or ferry, other than a personal audio device with personal earphones such that sound from such earphones is not plainly audible to another individual at a distance of 5 feet or more from the source.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-234 Rapid transit railroads added chap 907/1985 § 1

Formerly § 1403.3-5.07 added LL 57/1972 § 2

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

Administrative Code of the City of New York

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NYC Administrative Code 24-235

Administrative Code of the City of New York

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-235 Animals.

No person having charge, care, custody, or control of any animal shall cause or permit such animal to cause unreasonable noise including, but not limited to, any sound that is plainly audible at any location within any residential receiving property as set forth below:

(a) At or after 7 a.m. and before 10 p.m., continuously for a period of 10 minutes or more.

(b) At or after 10 p.m. and before 7 a.m., continuously for a period of 5 minutes or more.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-222 amended L.L. 18/1993 § 11, eff. Mar. 12, 1993, added chap 907/1985 § 1

Formerly § 1403.3-4.07 added LL 57/1972 § 2

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-236

Administrative Code of the City of New York

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-236 Motor vehicles.

(a) Motor vehicles, other than motorcycles, with a maximum gross weight of 10,000 lbs. or less. No person shall cause or permit any motor vehicle, other than a motorcycle, with a maximum gross weight of 10,000 lbs. or less to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance of 150 feet or more from the motor vehicle.

(b) Motorcycles. No person shall cause or permit any motorcycle to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance of 200 feet or more from the motorcycle.

(c) Motor vehicles with a maximum gross weight greater than 10,000 lbs. No person shall cause or permit any motor vehicle with a maximum gross weight greater than 10,000 lbs. to operate on a public right-of-way where the muffler or exhaust generates a sound that is plainly audible to another individual at a distance of 200 feet or more from the motor vehicle, except when compression brake systems are used in an emergency to stop the vehicle.

(d) (1) No person operating a motor vehicle containing a compression brake system or systems shall apply such compression brake system or systems except when such system or systems are used in an emergency to stop the vehicle.

(2) The department is authorized to post signs at every entry point of the city containing the following

information: THE USE OF COMPRESSION BRAKE SYSTEMS IS PROHIBITED ON STREETS WITHIN NEW YORK CITY WHERE THE SPEED LIMIT IS 35 MILES PER HOUR OR LESS EXCEPT IN CASE OF AN EMERGENCY.

(e) No person shall cause or permit the total sound from a motor vehicle operating on any public right-of-way to exceed the sound level set forth in section 386 of the vehicle and traffic law and the rules adopted pursuant to such section.

(f) Subdivisions a, b, c and paragraph one of subdivision d of this section may only be enforced on streets where the speed limit is 35 miles per hour or less.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-232 added chap 907/1985 § 1

Formerly § 1403.3-5.03 added LL 57/1972 § 2

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-237

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§ 24-237 Sound signal devices.

(a) No person shall operate or use or cause to be operated or used any claxon installed on a motor vehicle, except as a sound signal of imminent danger or in connection with use as an audible motor vehicle burglar alarm as provided in section 24-238 of this code.

(b) No person shall operate or use or cause to be operated or used an air horn or gong installed on any motor vehicle other than as provided in section 24-241 of this code.

(c) No person shall operate or use or cause to be operated or used any steam whistle attached to any stationary boiler, except to give notice of the time to start and stop work or as a sound signal of imminent danger.

(d) No person shall operate or use or cause to be operated or used on any public right-of-way any electrically operated or electronic sound signal device (other than a safety device, such as but not limited to a car horn or back up signal, that is actually used for its intended purpose) attached to, on or in a motor vehicle, wagon or manually propelled cart from which food or any other items are sold or offered for sale when the vehicle is stopped, standing or parked. For the purposes of this subdivision the term "stopped" means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a police officer or other authorized enforcement officer or a traffic control sign or signal. The terms "standing" and "parked" shall be as defined in the vehicle and traffic law.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-221(a), (b), (c) and § 24-239 added chap 907/1985 § 1

Formerly § 1403.3-5.17 added LL 57/1972 § 2

Amended LL 34/1974 § 1

Formerly § 1403.3-4.05 added LL 57/1972

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

Administrative Code of the City of New York

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NYC Administrative Code 24-238

Administrative Code of the City of New York

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CHAPTER 2 NOISE CONTROL

SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-238 Audible burglar alarm and audible status indicator.

(a) No owner of a building or of a motor vehicle shall have in operation an audible burglar alarm thereon unless such burglar alarm shall be capable of and shall automatically terminate its operation within fifteen minutes of its being activated in the case of a building, and three minutes of its being activated in the case of a motor vehicle. No audible burglar alarm on a motor vehicle shall be capable of being activated except by:

(i) direct physical contact with that motor vehicle; or

(ii) through the use of an individual remote activation device, that is activated from no further than 15 feet away from such vehicle and, that is designed to be used with the audible burglar alarm system of a particular vehicle which alarm shall be capable of and shall terminate its audible response within three minutes of its being activated.

(b) No owner of a motor vehicle shall have in operation an audible status indicator on such motor vehicle.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-221 added chap 907/1985 § 1

Opening par amended L.L. 18/1993 § 10, eff. Mar. 12, 1993

Subd. (d) amended L.L. 110/1993 § 2, eff. Mar. 29, 1994

Subds. (e)-(i) added L.L. 110/1993 § 3, eff. Mar. 29, 1994

Subd. (j) relettered L.L. 110/1993 § 3, eff. Mar. 29, 1994. (formerly subd. (e))

Formerly § 1403.3-4.05 added LL 57/1972 § 2

Sub 4 amended LL 66/1973 § 1

FOOTNOTES

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[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-239

Administrative Code of the City of New York

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-239 Audible burglar alarm or audible status indicator may be disconnected.

(a) Notwithstanding the provisions of section 24-238, any member of the police department shall have the right to take such steps as may be reasonable and necessary to disconnect any audible burglar alarm or audible status indicator that is installed on a motor vehicle at any time during the period of its activation.

(b) The operator of any motor vehicle on which an audible burglar alarm or audible status indicator has been installed shall when parked on a public highway or parking lot open to the public, prominently display the number and telephone number of the owner's local police precinct where information shall be on file to permit communication with the owner of such vehicle.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See derivation for § 24-238

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-240

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§ 24-240 Removal of vehicle with audible burglar alarm or audible status indicator.

(a) Notwithstanding the provisions of section 24-239, any member of the police department may arrange for the removal of a motor vehicle from a public highway or parking lot open to the public, when:

(i) an audible burglar alarm installed on such vehicle is operated in violation of this code or an audible status indicator is operated on such vehicle; and

(ii) all reasonable and necessary steps to disconnect such alarm or audible status indicator have been taken without success. Authorized personnel of the department or the department of transportation may request a member of the police department to arrange for removal of such vehicle. When such removal is requested, the notice of violation for operation of an audible burglar alarm in violation of this section or for operation of an audible status indicator shall state that a member of the police department took all reasonable and necessary steps to disconnect such alarm or such audible status indicator without success. Such removal may be accomplished by utilizing any existing city-operated tow-program, rotation tow program established pursuant to section 20-519 of the code or such other procedures as may be established. The cost of towing and storage of such motor vehicle shall be the responsibility of the owner or other person who claims such vehicle.

(b) An opportunity for a hearing before the board shall be provided to the owner of a motor vehicle removed pursuant to this section within five business days after a request for a hearing is made to determine whether there was a

basis for such removal. The board shall render a decision within two business days following the conclusion of the hearing. If it is determined that there was no basis for removal of a vehicle pursuant to this section, the owner of such vehicle may recover from the city any amounts paid by such owner for towing and storage.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

See derivation for § 24-238

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

Administrative Code of the City of New York

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NYC Administrative Code 24-241

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-241 Emergency signal devices.

(a) No person shall operate or use or cause to be operated or used any emergency signal device, except on an authorized emergency vehicle when such vehicle is in the act of responding to an emergency; provided that such device shall not be operated for a period of time longer than is necessary to respond to such emergency. Notwithstanding the foregoing, such a device on a motor vehicle shall be lawful if designed and used solely as an audible motor vehicle burglar alarm in accordance with section 24-238 and a device attached to a vehicle for the purpose of providing an audible warning when the vehicle is backing up shall be permitted even though the audible warning may consist of a gong or bell sound.

(b) No person shall operate or permit to be operated an emergency signal device installed on an authorized emergency vehicle that when operated at the maximum level creates a sound level in excess of 90 dB(A) when measured at a distance of fifty feet from the center of the forward face of such vehicle. Within one year after the effective date of this subdivision and every two years thereafter, emergency signal devices installed on authorized emergency vehicles shall be tested and certification shall be submitted, in a form approved by the department, that such devices meet the standard set forth in this subdivision for operation at maximum level. Notwithstanding the foregoing provisions, where compliance with the provisions of this subdivision would create an undue hardship, the owner or operator of an authorized emergency vehicle may submit a plan to the commissioner for emergency signal devices to meet the standard set forth in this subdivision within two years after the effective date of this subdivision. Such plan shall be submitted within one year after the effective date of this subdivision in lieu of the required certification. This

subdivision shall not apply to authorized emergency vehicles of the police department, fire department or authorized emergency vehicles responding to medical emergencies.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Sub (a) Formerly § 24-223 amended L.L. 18/1993 § 12, eff. Mar. 12,

1993, added chap 907/1985 § 1

Formerly § 1403.3-4.09 added LL 57/1972 § 2

Sub (b) Formerly § 24-240 added chap 907/1985 § 1

Formerly § 1403.3-5.19 added LL 57/1972 § 2

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-242

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§ 24-242 Lawn care devices.

(a) No person shall operate or use or cause to be operated or used any lawn care device:

(1) On weekdays before eight a.m. and after seven p.m. or sunset, whichever occurs later; or

(2) On weekends and New York state and federal holidays before nine a.m. and after six p.m.; or

(3) At any time in such a way as to create an unreasonable noise. For the purposes of this section unreasonable noise shall include but shall not be limited to an aggregate sound level of 75 dB(A) or more, attributable to the source or sources, as measured at any point within a receiving property. The provisions of paragraph (1) of this subdivision shall not apply to an employee of the department of parks and recreation or an agent or contractor of the department of parks and recreation who operates or uses or causes to be operated or used any lawn care device between the hours of seven a.m. and eight a.m. in any location more than three hundred feet from any building that is lawfully occupied for residential use. The distance of three hundred feet shall be measured in a straight line from the point on the exterior wall of such building nearest to any point in the location at which such lawn care device is operated or used or caused to be operated or used.

(b) No person shall operate or use or cause to be operated or used any leaf blower not equipped with a functioning muffler.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-227.1 added L.L. 12/1996 § 3, eff. Feb. 20, 1996

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-243

Administrative Code of the City of New York

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§ 24-243 Snow blowers.

The provisions of this code shall not apply to the operation of a snow blower for the purpose of complying with subdivision a of section 16-123 of the administrative code.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

FOOTNOTES

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[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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NYC Administrative Code 24-244

Administrative Code of the City of New York

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SUBCHAPTER 6*30 SPECIFIC NOISE SOURCES PLAINLY AUDIBLE AND OTHER STANDARDS

§ 24-244 Sound reproduction devices.

(a) Except as otherwise provided in section 10-108 of the code, no person shall operate or use or cause to be operated or used any sound reproduction device in such a manner as to create unreasonable noise.

(b) No person shall operate or use or cause to be operated or used any sound reproduction device, for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show, sale or display of merchandise, in connection with any commercial or business enterprise (including those engaged in the sale of radios, television sets, compact discs or tapes), (i) outside or in front of any building, place or premises or in or through any aperture of such building, place or premises, abutting on or adjacent to a public street, park or place; (ii) in or upon any vehicle operated, standing or being in or on any public street, park or place; (iii) from any stand, platform or other structure; (iv) from any airplane or other device used for flying, flying over the city; (v) from any boat on the waters within the jurisdiction of the city; or (vi) anywhere on the public streets, public sidewalks, parks or places where sound from such sound reproduction device may be heard upon any public street, sidewalk, park or place. Nothing in this section is intended to prohibit incidental sounds emanating from a sporting or an entertainment or a public event for which a permit under section 10-108 of the code has been issued.

HISTORICAL NOTE

Section added L.L. 113/2005 § 10, eff. July 1, 2007.

DERIVATION

Formerly § 24-220 added chap 907/1985 § 1, Subd. (a) amended L.L. 18/1993 § 9, eff. Mar. 12, 1993.

Formerly § 1403.3-4.03 added LL 57/1972 § 2

CASE NOTES FROM FORMER SECTION

¶ 1. Summonses served on discotheque for violation of this section were dismissed where discotheque was a lawful business operating in an area zoned for commercial use, was in operation before complainants moved in neighborhood and corporation owning discotheque had made all reasonable efforts to limit the noise emanating from it.-People v. Kerwin, 182 (32) N.Y.L.J. (8-15-79) 11, Col. 2 T.

FOOTNOTES

30

[Footnote 30]: * Subchapter 6 repealed and added L.L. 113/2005 § 10, eff. July 1, 2007.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-245

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-245 Operating certificates and renewal of operating certificates; tunneling permits; when required.

(a) The commissioner shall at his or her discretion promulgate regulations pursuant to section eleven hundred five of the city charter directing the placement of air compressors, paving breakers, refuse compacting vehicles and rapid transit railroads, including but not limited to their rolling stock, track and track beds, passenger stations, tunnels, elevated structures, yards, depots and garages, onto an operating certificate list, setting out the reasons for such placement, and setting out the period of time from issuance or renewal during which such operating certificate shall be valid, unless sooner revoked or can- celled.

(b) No person shall cause or permit the use or operation of any device placed on the operating certificate list pursuant to subdivision (a) of this section except for the purpose of testing such device without first obtaining an operating certificate from the commissioner. The placement of such a device not bearing an operating certificate at a location of its customary operation shall be considered a violation of this section in any proceeding pursuant to any applicable section of subchapter eight of this chapter of this code except section 24-269.

(c) No person shall engage in or permit any person to engage in tunneling without first obtaining a tunneling permit from the commissioner. A separate permit shall be obtained for each shaft of a tunnel.

(d) Prior to advertising for bids for contracts involving tunneling, the agency of the city of New York proposing to so advertise shall request the commissioner in writing for a statement of the requirements or standards that will

govern the proposed tunneling activities pursuant to section 24-248 of this subchapter. The aforesaid requirements shall be furnished by the commissioner to the contracting agency in writing within thirty days after receipt of the request and shall be included by the contracting agency in the contract specifications for the proposed tunneling. The conditions under which the permit shall be granted to the contractor shall be consistent with the statement furnished by the commissioner to the contracting agency for inclusion in the contract specifications.

(e) Notwithstanding the existence of a valid tunneling permit, no person shall, except in the case of urgent necessity in the interest of public safety, conduct or permit to be conducted blasting operations at any time other than on weekdays and other than between the hours of seven a.m. and seven p.m. unless a special permit is obtained from the fire department pursuant to subdivision d of section 27-4039.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.01 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-246

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-246 General requirements for applications for operating certificates and for tunneling permits, and removal of operating certificates.

(a) Application for an operating certificate or for the removal of an operating certificate shall be made by the owner of the device on forms furnished by the department.

(b) Application for a tunneling permit shall be made on forms furnished by the department by or in behalf of the owner or lessee of the tunnel; and if made by a person other than the owner, the application shall be accompanied by a signed statement of the applicant declaring that he or she is authorized by the owner to make the application. The permittee shall in all cases be the applicant.

(c) Each application hereunder shall be signed by the applicant. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the operation or use of the device concerned or for tunneling in accordance with the requirements of this code. If the applicant is a partnership or group other than a corporation, the application shall be made by one individual who is a member of the group. If the applicant is a corporation, the application shall be made by an officer of the cor- poration.

(d) Application for the removal of an operating certificate shall be postmarked or date-stamped by the department upon personal delivery no later than thirty days prior to the expiration of the certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.03 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-247

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-247 Information required for applications for operating certificates and for tunneling permits.

(a) Each application for an operating certificate shall contain such information as the commissioner may require in order to determine whether a device covered by the application is or will operate in compliance with the provisions of this code, including but not limited to:

(1) The model number and operating characteristics of the device covered by the application;

(2) A report certified by an approved testing laboratory as to the sound level generated by the device when operated under normal operating conditions or a manufacturer's warranty as to sound level provided that the device is regularly tested in accordance with procedures established by the American national standards institute or other appropriate professional standard-setting organization listed in section 24-242;*33 and

(3) The proposed means, if any, for the prevention or control of unreasonable noise.

(b) Each application for a tunneling permit shall contain such information as the commissioner may require to determine whether tunneling activities and the devices operated therein will be undertaken in compliance with the provisions of this code, including but not limited to:

(1) The types and operating characteristics of the devices employed in such tunneling;

(2) A detailed description of proposed tunneling; and

(3) The proposed means for the prevention of unreasonable noise.

(c) Information concerning secret processes which may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a departmental court proceeding or departmental or board hearing, the information is relevant to the proceeding or hearing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) par (3) amended L.L. 18/1993 § 19, eff. Mar. 12, 1993.

Subd. (b) par (3) amended L.L. 18/1993 § 20, eff. Mar. 12, 1993.

DERIVATION

Formerly § 1403.3-7.05 added LL 57/1972 § 2

FOOTNOTES

33

[Footnote 33]: * This § 24-242 was repealed and the substance transferred to § 24-204(c).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-248

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-248 Standards for granting operating certificates and tunneling permits.

(a) No operating certificate shall be granted unless the applicant shows to the satisfaction of the commissioner that:

(1) The device will be operated without causing a violation of the provisions of this code; and

(2) The device incorporates advances in the art of noise control developed for the kind and level of noise emitted by the applicant's device.

(b) No tunneling permit shall be granted unless the applicant shows to the satisfaction of the commissioner that:

(1) The devices employed in such tunneling, including construction devices, storage bins and hoppers, will be operated or used without causing a violation of the provisions of this code;

(2) The motor vehicles employed in such tunneling will be routed at such times of day and such routes as not to cause unreasonable noise; and

(3) All advances in the art of noise control, including appropriate closures around devices, and sound deadening linings on storage bins and hoppers, developed for the kind and level of noise emitted by applicant's activities or devices have been incorporated into such tunneling activities and devices.

(c) The commissioner may from time to time issue regulations for the guidance of applicants indicating the technical specifications which he or she deems will comply with the performance standards of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) par (2) amended L.L. 18/1993 § 21, eff. Mar. 12, 1993.

DERIVATION

Formerly § 1403.3-7.07 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-249

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-249 Testing before granting or renewing of operating certificates; testing before granting of tunneling permits.

(a) Before a tunneling permit is granted or before an operating certificate is granted or renewed, the commissioner may require the applicant to conduct such tests as are necessary in the opinion of the commissioner to determine the sound level emitted from a device or an activity or to determine whether the device or its operation or an activity is contributing to, or is in violation of this code. The test shall be made at the expense of the applicant.

(b) Such test shall be conducted, reviewed and certified as provided by subdivision (b) of section 24-206 of this code. The applicant shall notify the department of the time and place of a test as provided by subdivision (c) of section 24-206*34 of this code. Reasonable facilities shall be made available for the department to witness the test.

If in the opinion of the commissioner tests by the department are necessary, the facilities for such tests, exclusive of sound level meters, shall be furnished by and at the expense of the owner or lessee or his or her agent as provided by subdivision (d)**35 of section 24-206 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.09 added LL 57/1972 § 2

FOOTNOTES

34

[Footnote 34]: ** This subd. (c) of § 24-206 was repealed by L.L. 113/2005 § 3.

35

[Footnote 35]: ** This subd. (d) of § 24-206 became subd. (c) of § 24-206 by L.L. 113/2005 § 3.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-250

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-250 Action on applications for certificates or tunneling permits.

(a) The commissioner shall act within a reasonable time not to exceed sixty days on an application for a tunneling permit, for an operating certificate, or for a renewal of an operating certificate, and shall notify the applicant in writing of his or her approval or disapproval of the application.

(b) If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval or notice of violation.

(c) Within sixty days after service on the applicant of the notice of disapproval, exclusive of the day of service, the applicant may request the commissioner to reconsider the application by answering in writing the commissioner's objection to the application.

(d) The commissioner shall consider the applicant's answer to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to answer or request an extension of time within sixty days after service of the notice of disapproval or a notice of violation shall be deemed a denial of the application.

(e) The commissioner may grant a temporary operating certificate or tunneling permit for a period not to exceed sixty days upon receipt of an application for the granting or renewal of an operating certificate and may, at his or her

discretion, renew a temporary operating certificate or tunneling permit for an additional period not to exceed sixty days.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.11 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-251

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-251 Conditions of certificates or tunneling permits to be observed.

The holder of a certificate or of a tunneling permit shall comply with the conditions and terms contained in his or her certificate or tunneling permit as well as all applicable provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.13 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-252

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-252 Suspension or revocation of certificates or tunneling permits.

(a) The commissioner shall suspend or revoke a tunneling permit or certificate when ordered to do so by the board pursuant to subchapter eight of this chapter of this code.

(b) Suspension or revocation of a certificate or tunneling permit shall become final five days after service of notice, exclusive of the day of service, on the holder of the certificate or tunneling permit.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.15 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-253

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-253 Surrender of certificates or tunneling permits.

A certificate or tunneling permit which has been cancelled or revoked pursuant to this code shall be surrendered forthwith to the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.17 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-254

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-254 Transfer of certificates.

Any purported or attempted transfer of a certificate automatically revokes the certificate, except that upon a conveyance of the premises in which the device is located a certificate may be transferred to a person other than the person named in the certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.19 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-255

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-255 Operating certificate or tunneling permit fees.

(a) A person applying for an operating certificate, or a renewal of an operating certificate shall pay a fee of thirty dollars.

(b) A person applying for a tunneling permit shall pay a fee of two hundred and fifty dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.21 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-256

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 7 CERTIFICATES AND TUNNELING PERMITS

§ 24-256 Departmental publication fees.

The department may charge for a copy of its publications a fee in an amount not to exceed the unit cost of the preparation and distribution of the publication.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-7.23 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-257

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-257 Powers of the board.

(a) The board, in addition to other duties assigned to it by law, shall have the power to conduct hearings pursuant to this subchapter and, by the issuance of a subpoena, compel the attendance of witnesses and the production of any books, papers or other things relating to the matter under investigation.

(b) The board may, upon notice pursuant to section 24-259 of this code, and after a hearing pursuant to section 24-263 of this code, or in default thereof pursuant to section 24-264 of this code: (1) Order the commissioner to revoke or suspend a certificate or tunneling permit issued pursuant to this code for any device or activity where such device or activity causes, or is maintained or operated so as to cause a violation of any provision of this code or order or regulation promulgated by the commissioner or the board; (2) Order the owner of any device which causes or is maintained or operated so as to cause a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board, to install any apparatus which can reasonably be expected to correct the violation, or to repair, properly maintain, replace or alter such device in a manner which can reasonably be expected to correct the violation;

(3) Seal any device which causes or is maintained or operated so as to cause a violation of any provision of this code or order or regulation promulgated by the commissioner or the board, except as provided in subdivision (c) of this section;

(4) Order any person to cease and desist from any activity which causes or is conducted so as to cause a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board, except as provided in subdivision (c) of this section;

(5) Impose a civil penalty in each instance in an amount as set out in table V against any person who violates a provision of this code, or of any order, rule or regulation promulgated by the commissioner or the board.

Table I

Violations related to section and subdivision	Civil Penalties					
	First Violation		Second Violation*		Third and Subsequent Violations*	
	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum
24-216 (d)	2,625	650	5,250	1,300	7,875	1,950
24-218	1,000	350	2,000	700	3,000	1,050
24-218.1	50	50	50	50	50	50
24-220	1,400	440	2,800	880	4,200	1,320
24-222	3,500	875	7,000	1,750	10,500	2,625
24-223	3,500	875	7,000	1,750	10,500	2,625
24-224	3,500	875	7,000	1,750	10,500	2,625
24-225	1,400	440	2,800	880	4,200	1,320
24-226	1,400	440	2,800	880	4,200	1,320
24-227	875	220	1,750	440	2,625	660
24-228	1,400	440	2,800	880	4,200	1,320
24-229	1,400	440	2,800	880	4,200	1,320
24-230	1,400	440	2,800	880	4,200	1,320
24-231(a)	8,000	2,000	16,000	4,000	24,000	6,000
24-231(b)	1,750	440	3,500	880	5,250	1,320
24-231(c)	875	350	1,750	700	2,625	1,050
24-232	1,400	440	2,800	880	4,200	1,320
24-233(a)	175	50	350	100	525	150
24-233(b)(1)	175	50	350	100	525	150
24-233(b)(2)	350	100	700	200	1,050	300
24-234	175	50	350	100	525	150
24-235	175	50	350	100	525	150
24-236(a)	525	150	1,050	300	1,575	450
24-236(b)(c)(d)	1,440	440	2,800	880	4,200	1,320
24-237(a)	1,000	150	2,000	300	3,000	450
24-237(b)	875	220	1,750	440	2,625	660
24-237(c)	875	220	1,750	440	2,625	660
24-237(d)	1,000	350	2,000	700	3,000	1,050
24-238	875	220	1,750	440	2,625	660
24-239(b)	350	100	700	200	1,050	300
24-241	1,400	440	2,800	880	4,200	1,320
24-242	875	220	1,750	440	2,625	660
24-244	1,750	440	3,500	880	5,250	1,320
24-245	2,625	660	5,250	1,320	7,875	1,980
All remaining sections and subdivi-	875	220	1,750	440	2,625	660

sions

* By the same respondent of the same provision of law, order, rule or regulation and, if the respondent is the owner, agent, lessee or other person in control of the premises with respect to which the violation occurred, at the same premises (all violations committed within two years).

Each day during which such violation continues shall constitute a separate violation. The board may remit, in whole or in part, such a civil penalty if, at the conclusion of the hearing or at the time of the board determination under section 24-266 of this code, the respondent is no longer in violation of a provision of this code, or of any order, rule or regulation promulgated by the commissioner or the board;

(6) Impose a civil penalty of not more than two hundred fifty dollars on any owner of a device for each day such equipment is sealed pursuant to this section;

(7) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on a device pursuant to this section.

(8) Impose an additional civil penalty in the amount of twenty-five percent of that which would otherwise be imposed for each twelve decibels by which the sound or noise level measured exceeds the maximum sound level as contained in subchapters five and six of this chapter.

(9) Impose an additional civil penalty in the amount of ten percent of the penalty orginally imposed, for late payment of penalty for each month, or part thereof, that the penalty payment is in arrears. In no event shall the total additional civil penalty exceed the maximum set forth in the table of civil penalties, or as modified pursuant to paragraph eight of this subdivision or paragraph ten of this subdivision, or both.

(10) Order any person to be classified as a persistent violator if such person is found to be in violation of this code and has also on one or more prior occasions within the preceding five years been found to be in violation of this code, where such repeated violations evidence substanial*13 disregard thereof. If a person is classified as a persistent violator, the board shall in each instance double the amount of the penalty which it would otherwise impose pursuant to paragraph five of this subdivision. Such double penalties shall be imposed for violations which the board finds a person committed pursuant to the same proceeding at which it classified such person as a persistent violator and for all violations committed within two years immediately following such classification, after whcih such classification shall terminate. However, if at the end of such two year period such person is still in violation of this code because of a failure to take or complete a corrective action as required by the board, such classification shall continue until such time as such person is no longer in violation of this code because of such failure, at which time such classification shall cease. Thereafter, the board may again classify such person as a persistent violator, on the same basis it used originally.

(c) The board may, upon notice pursuant to section 24-259 of this code:

(1) order any person to cease and desist from the operation of any listed device without a certificate as required by section 24-245 of this code and the board may also seal such device;

(2) order any person to cease and desist from tunneling without a tunneling permit as required by section 24-245 of this code and the board may also seal any device used in such tunneling;

(3) order any person not in possession of an after hours work authorization issued pursuant to section 24-223 of this code to cease and desist from construction activities other than during the permissible hours specified in section 24-222 of this code and the board may also seal any device used in such construction activities;

(4) order any person to cease and desist from the operation of a device without registration required by section

24-208 of this code and the board may also seal such device.

(d) The board may order the commissioner to install any apparatus or to repair or alter any device or apparatus which causes or is maintained or operated so as to cause a violation of an order issued pursuant to paragraph two of subdivision (b) of this section, where such repairing or alteration can reasonably be expected to correct such a violation. Any work required under such an order may be executed by the commissioner through the officers, agents or contractors of the department. The department shall be reimbursed promptly for all costs and expenses of such work by the owner of the device to which the order relates and in respect to which such expenses were incurred. Such expenses may be recovered in a civil action brought in the name of the commissioner.

(e) If an order of the board issued pursuant to subdivisions (b) and (c) of this section provides for a period of time during which a person subject to the order is permitted to correct a violation, the board may require the respondent to post a performance bond or other security with the department in a form and amount sufficient to assure the correction of such violation within the prescribed time. In the event of a failure to meet the schedule prescribed by the board, the sum named in the bond or other security shall be forfeited and shall be paid to the commissioner.

(f) (1)* The36 board may order any person to cease and desist from an activity which it reasonably believes causes unreasonable noise which creates imminent peril to the public health and well being, or to cease and desist from an activity which it reasonably believes constitutes a willful or continued violation of any provision of this code or order or regulation, promulgated by the commissioner or board. Such order shall be effective upon service thereof. Any party affected by such an order may request a hearing on written notice, and he or she shall be afforded a hearing, within twenty-four hours after service of such request, pursuant to section 24-263 of this code. If such an accelerated hearing is not requested, then a hearing shall be afforded within ten days of the issuance of the order. The board shall issue its final decision and order thereon within three days from the conclusion of a hearing held pursuant to this subdivision.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) par (5) amended L.L. 113/2005 § 11, eff. July 1, 2007.

Subd. (b) par (5) amended L.L. 57/1989 § 4

Subd. (b) par (5) Table I repealed and added (former Table V) L.L.

113/2005 § 12, eff. July 1, 2007.

Subd. (b) par (5) Table V amended L.L. 84/1997 § 2, eff. Dec. 30, 1997.

See Note

Subd. (b) par (5) Table V amended in part L.L. 12/1996 § 5, eff. Feb.

20, 1996

Subd. (b) par (5) Table V amended in part L.L. 110/1993 § 4, eff. Mar.

29, 1994

Subd. (b) par (5) Table V 24-218.1(b) line added L.L. 9/2003 § 2, eff.

Apr. 13, 2003.

Subd. (b) pars (6), (7) amended LL 57/1989 § 5

Subd. (f) par (1) amended L.L. 18/1993 § 22, eff. Mar. 12, 1993

Subd. (c) par (3) amended L.L. 113/2005 § 13, eff. July 1, 2007.

Subd. (f) amended L.L. 113/2005 § 14, eff. July 1, 2007.

DERIVATION

Formerly § 1403.3-8.01 added LL 57/1972 § 2

Sub b repealed and added LL 75/1982 § 13

NOTE

Provisions of L.L. 84/1997 § 1:

Section 1. Legislative Intent. Twenty-five years ago, when the comprehensive New York City Noise Control Code was enacted, it was declared as the public policy of the City that ". . . every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property . . ." and that ". . . the making, creation or maintenance of excessive and unreasonable noises within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city." The ability of the City's residents, workers and visitors to secure a minimum level of quiet and freedom from noise is critical to the quality of life and the enjoyment of their homes, workplaces, places of recreation and the exterior environment.

It is axiomatic that strong enforcement is essential to the effectiveness of any regulatory program and a significant component of such enforcement is the penalty to be imposed for a violation of the law. Strong civil penalty provisions serve as a deterrent to violations of the Noise Control Code and preserve and advance the public policy reflected therein. However, it is the view of the Council that the existing civil penalties no longer serve as an adequate deterrent. This bill strengthens enforcement by establishing two new tiers of civil penalties in which those penalties are substantially increased for a second violation of the same provision of the Noise Control Code by the same person and for third and subsequent violations of the same provision of the Noise Control Code by the same person.

The Council also declares that nothing in this legislation is intended to limit the authority of the Environmental Control Board to issue "cease and desist" orders under existing provisions of the Noise Control Code.

FOOTNOTES

13

[Footnote 13]: * So in original. (Word misspelled.)

36

[Footnote 36]: * There is no paragraph (2) to subd. (f).

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NYC Administrative Code 24-258

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-258 The board.

(a) The board shall be convened by the chairperson or in the chairperson's absence the assistant commissioner of environmental compliance, or at the request of any three members thereof.

(b) If a member of the board has presided over the initial hearing, he or she shall not be disqualified from reviewing the hearing.

(c) Five members of the board, at least two of who shall not be city officials, shall constitute a quorum.

HISTORICAL NOTE

Section amended L.L. 113/2005 § 15, eff. July 1, 2007.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.03 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-259

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-259 Notice of violation.

(a) Notice, required by this chapter, shall be given by issuance of a notice of violation.

(b) Whenever the commissioner has reasonable cause to believe that a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board may exist, he or she may cause to have a notice of violation issued and served on:

(1) The person in violation; or

(2) An owner with an equity interest in the device in violation, if any; or

(3) If an owner with an equity interest in the device in violation cannot be located with due diligence, any other owner of said device.

(c) A notice of violation shall:

(1) Specify the section or sections of this code, order, or regulation that such person or device is in violation of; and

(2) Indicate the amount of the civil penalty that such person is subject to; and

(3) Contain a brief statement of the nature of the violation; and

(4) Require a written response that conforms to section 24-260 of this code; and

(5) Require such person or owner of a device, unless a hearing is not required by section 24-257 of this code, to answer the allegations in the notice of violation at a time and place designated either in or with the notice of violation or in a subsequent notice to such person or owner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.05 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-260

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-260 Written response.

(a) A written response in a form prescribed by the board shall be served upon the department and filed with the board within five days of receipt of the notice of violation.

(b) If the allegation in the notice of violation is one for which a hearing is not required by section 24-257 of this code, and is contested, then the respondent must either:

(1) Include a copy of any tunneling permit or certificate that the respondent asserts was issued by the department; or

(2) Deny that such tunneling permit or certificate is required by law.

(c) If any of the allegations in the notice of violation are those for which a hearing is required by section 24-257 of this code, and are contested, the written response shall contain a concise statement of the facts constituting each ground of defense.

(d) If allegations in the notice of violation are admitted the written response of the respondent shall consist of:

(1) A statement that he or she admits all of the material allegations to be true; and

(2) A statement of any attempts subsequent to service of the notice of violation to comply with this code or with the order or regulation.

(e) Failure of the respondent to serve a written response within the time provided shall be deemed to constitute a waiver of his or her right to appear and contest the allegations in the notice.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.07 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-261

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-261 Citizen's complaint.

(a) Any person other than personnel of the department and employees of the city of New York authorized by law to serve summonses for violation of the code may serve upon the department a complaint in a form prescribed by the commissioner alleging that a person has violated a provision of this code set forth in table VI,*37 below, or an order or regulation promulgated under such provision together with evidence of such violation.

TABLE VI*

Violation related to section or subdivision and order or regulation thereunder
24-208
24-216
24-220 (b)
24-224
24-232, except that the provisions of this section 24-261 shall apply only to violations by persons operating motor vehicles listed in subdivisions one and two of column I, and subdivisions one and two of column II of Table 1. 24-234

24-236 24-237, except that the provisions of this section 24-261 shall apply only to a violation by a person operating a circulation device with a rated capacity in excess of fifty thousand British thermal units per hour or its equivalent.

24-238

24-240

24-241

24-244

24-245

(b) A person who has served a complaint pursuant to subdivision (a) of this section may serve upon the person allegedly in violation and upon the board a notice of violation in a form prescribed by the board, if within thirty days from service of such complaint:

(1) The department has failed to serve a notice of violation, pursuant to section 24-259 of this code, for the violation alleged in a complaint pursuant to subdivision (a) of this section; or

(2) The department fails to serve a written notice upon the complainant of its determination that his or her complaint is frivolous or duplicitous.

(c) A person commencing a proceeding before the board pursuant to this section, shall prosecute such proceeding at his or her own expense. The department may intervene in such a proceeding at any time.

(d) In any proceeding brought by the department after receiving a complaint pursuant to subdivision (a) of this section, the board shall award the complainant, out of the proceeds collected, fair and reasonable compensation, which shall not exceed twenty-five percent of the proceeds collected, for disclosure of information or evidence not in the possession of the department, which leads to the imposition of the civil penalty.

(e) In any proceeding brought by a complainant, the board shall award, out of the proceeds collected, fifty percent of any civil penalty as fair and reasonable compensation to such person.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.09 added LL 57/1972 § 2

FOOTNOTES

37

[Footnote 37]: * Table VI should be updated to include changes made by L.L. 113/2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-262

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-262 Settlement of proceedings.

The board may settle any proceeding by stipulation and may exercise any or all of its powers under section 24-257 of this code thereby, at any time prior to the issuance of a decision pursuant to section 24-266 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.11 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-263

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-263 Hearings.

(a) The chairperson of the board shall designate a hearing officer or at least one member of the board to preside over hearings held pursuant to this subchapter. In any hearing in which a quorum of the board is present, such members shall be deemed to be sitting as the board.

(b) All such hearings shall be open to the public.

(c) At the request of any party to such a hearing, the board shall by the issuance of a subpoena compel the attendance of such witnesses and shall require the production of any such books, papers, or other things relating to the matter under investigation if such a request reasonably relates to such hearing.

(d) Any party to a hearing may be represented by counsel, may make oral and written argument and cross-examine witnesses. All testimony taken before the board or the designated hearing officer shall be under oath and shall be recorded. The record shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproduction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.13 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-264

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-264 Default; vacating a default order.

(a) A respondent shall be in default when the respondent has:

(1) Failed to serve a written response pursuant to section 24-260 of this code; or

(2) Failed to appear at the designated time and place as required by the notice of violation or subsequent notice pursuant to section 24-259 or 24-261 of this code; or

(3) Neglected to proceed in a manner ordered by the board.

(b) Within sixty days of a decision and order of the board issued pursuant to paragraph two of subdivision (c) of section 24-266 of this subchapter, the respondent may request the board to grant a stay of such order of the board and schedule a hearing. If the respondent has shown good cause and a meritorious defense, the board may grant such a request and hold a hearing pursuant to section 24-263 of this code. At the conclusion of the hearing, the board may adopt, amend or rescind its decision and order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.15 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-265

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-265 Hearing officer's decision.

(a) At the conclusion of the hearing, the hearing officer or member of the board conducting the hearing shall prepare a decision stating findings of fact and conclusions, as well as reasons for his or her determination on all material issues, and making recommendations as to action which should be taken in the matter.

(b) The hearing officer or member of the board conducting the hearing shall file his or her decision with the board and send copies by mail to the parties. Any party may file exceptions with the board within twenty days after service of such decision. If no exceptions have been filed within the described time, the recommendations of the hearing officer or member of the board conducting the hearing shall automatically become the decision of the board and shall constitute its findings, conclusions and order.

(c) At the conclusion of a hearing conducted by the board, the board shall issue its decision and order. The decision of the board shall conform to the requirements of subdivisions (b) and (c) of section 24-266 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.17 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-266

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-266 Board decision and order.

(a) If any party files exceptions to the decision of the hearing officer or member of the board conducting a hearing within the prescribed time the board shall review the record and issue its decision and order in which it may adopt, modify or reject the findings, conclusions and recommendations of the hearing officer or member of the board who conducted the hearing.

(b) The decision of the board shall contain findings of fact, conclusions of law and reasons for the decision on all material issues raised, and an order either dismissing the allegations of the notice of violation or sustaining them in whole or in part.

(c) The board may exercise one or more of its powers pursuant to section 24-257 of this code, as it deems appropriate if:

(1) The allegations in the notice of violation are sustained in whole or in part;

(2) The respondent is in default under section 24-264 of this code.

(d) The decision and order of the board shall be its final determination. A judicial proceeding must be commenced within two months after the service of such decision and order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.19 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-267

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-267 Compliance with board decisions; orders and civil penalties.

(a) If the respondent fails or refuses to comply with the board's order, or the board otherwise deems it necessary, the corporation counsel for the city of New York, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any order of the board.

(b) A civil penalty imposed by the board pursuant to section 24-257 of this code may be collected in an action brought in the name of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.21 added LL 57/1972 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-268

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-268 Procedural rules.

The board shall have authority from time to time to make, amend and rescind such procedural rules as may be necessary to carry out the provisions of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.23 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-269

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 2 NOISE CONTROL

SUBCHAPTER 8 ENFORCEMENT

§ 24-269 Criminal penalties.

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

(b) Any person, other than a corporation, who violates any order of the commissioner or the board or any provision of section 24-245 of this code or who illegally breaks a seal on equipment, upon conviction shall be punished for each offense by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not more than thirty days or by both.

Any corporation which violates any order of the commissioner or the board or any provision of section 24-245 of this code, or which illegally causes a seal to be broken, upon conviction shall be punished for each offense by a fine of not less than one hundred dollars nor more than two thousand dollars.

Every day during which such violation occurs constitutes a separate offense.

(c) Any person, other than a corporation, convicted of willful failure to pay a civil penalty imposed by the board

pursuant to section 24-257 of this code shall be punished by a fine of double the amount of the civil penalty imposed by the board, or by imprisonment for not more than sixty days, or by both.

Any corporation convicted of a wilful failure to pay a civil penalty imposed by the board pursuant to section 24-257 of this code shall be punished by a fine of double the amount of the civil penalty imposed by the board, but not more than two thousand dollars.

(d) The failure of any person or corporation against whom an action has been brought to collect a civil penalty pursuant to subdivision (b) of section 24-267 of this code, who has been found liable by a court for such civil penalty and who does not pay such penalty after the judgment of such becomes final, shall be deemed guilty of a willful failure to pay a civil penalty.

(e) Any person convicted of violating any of the provisions of this code or any regulation of the board not otherwise provided for by this section shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars for the first offense, or by imprisonment for twenty days, or both; and by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for not more than thirty days, or both, for a second offense; and by a fine of not less than four hundred dollars nor more than five thousand dollars, or by imprisonment for not more than four months or both for a third or subsequent offense.

(f) Twenty-five percent of any fine that is imposed pursuant to this section may be paid to the person or persons giving information which shall lead to conviction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.3-8.25 added LL 57/1972 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-301

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-301 Assessment of city property used for water purposes.

a. The lands taken, or to be taken, for storage, reservoirs, or for other constructions necessary for the introduction and maintenance of a sufficient supply of water in the city, or for the purpose of preventing contamination or pollution, shall be assessed and taxed in the counties in which they are or may be located, in the manner prescribed by law, exclusive of the aqueducts.

b. This section shall not be construed to prevent the assessors in the county of Nassau from assessing for taxation the pumping stations and buildings located in such county.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 731-3.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. So-called aqueduct lands, consisting of a narrow strip of land four miles in length and underneath which ran a

conduit for transferring water from Croton reservoir to distributing reservoirs, **held** not to constitute a part of the aqueduct within meaning of Greater New York Charter § 480, and hence not to come within tax exemption accorded aqueducts by such statute.-People (City of N.Y.) v. Barker, 17 N.Y.S. 2d 305 [1939].

¶ 2. Inasmuch as the aqueduct lands were assessable, they were assessable at their full market value and not at a nominal value, even though in view of their character, size and presence of easements they had a distinctly depreciated market value.-Id.

¶ 3. Gateway and equipment **held** exempt from taxation as an essential part of the aqueduct.-Id.

¶ 4. Valuation for 1932 of the Catskill Aqueduct lands, which consisted of a strip of land about four miles long and an average 200 feet in width, was placed at $100 per acre, and the old Croton Aqueduct property, consisting of a strip over two miles long with an average width of 100 feet, was placed at $200 per acre.-People (City of N.Y.) v. Barker, 106 (82) N.Y.L.J. (10-6-41) 924, Col. 6 F, at 7 T.

¶ 5. Gate-house numbers one and two of the Catskill Aqueduct were essential to the maintenance and operation of the aqueduct and were a part thereof, and consequently were exempt from taxation.-Id.

¶ 6. The gravity sections of the gate-houses were an integral part of the dam, and had only a partial and incidental connection with the gate-houses or aqueducts, and consequently they were assessable.-Id.

¶ 7. Reconstruction cost was not the sole measure of fixing the value of a structure such as a dam. Furthermore, reproduction cost, less depreciation, represented the maximum and not necessarily the true valuation.-Id.

¶ 8. In determining the cost of reproduction of the dam, engineering cost and interest were properly added at $10^1/_2$ per cent. Also, an item for contractor's overhead and profit was properly included.-Id.

¶ 9. The straight-line method of computing depreciation was not applicable to property such as a dam. Furthermore, from the evidence it would appear that there was no appreciable depreciation, and that the utility of the structure would be terminated not by physical deterioration but by functional obsolescence. An allowance of 1 per cent per year for obsolescence and depreciation, or a total of 26 per cent for the period from 1906 to 1932, would seem excessive, although respondents were apparently satisfied with such rate.-Id.

¶ 10. Value of the Croton Dam was placed at equal to or in excess of five million dollars, the figure at which it was assessed.-Id.

¶ 11. The pavement on top of the dam, a railing thereon, and a bridge were integral parts of the dam, and the cost thereof was properly included in computing the reproduction cost of the dam, and the items were therefore non-assessable.-Id.

¶ 12. The abutments for the spillway bridge and the bridge itself were integral parts of the dam, the cost of which was not properly deductible in arriving at cost of reconstruction of dam.-Id.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-302

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-302 Commissioner of environmental protection; duty in regard to sources of water supply and property of department.

It shall be the duty of the commissioner to preserve the purity of all waters from which any part of the city water supply is drawn, and to protect such supply and the lands adjacent thereto from injury or nuisance. He or she shall maintain, preserve and repair all structures and all other property connected with the water supply.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-1.0 added chap 929/1937 § 1

CASE NOTES

¶ 1. Where the City maintained a reservoir for the purpose of ensuring a supply of pure drinking water (and incidentally for fishing and recreational purposes), the City was not under a duty to take steps to either prevent roadside parking or install designated parking areas. Thus, the City was not liable to a motorist who vehicle was hit while it was parked on a shoulder of the access road to the reservoir. Williams v. City of New York, 197 A.D.2d 465, 602 N.Y.S.2d

856 (1st Dept. 1993).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-303

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-303 Protection of water supply; certain acts misdemeanors.

a. It shall be unlawful for any person to throw or deposit, or cause to be thrown or deposited any dead animal or other offensive matter or anything whatever in either of the reservoirs or in any lake, pond or stream, or in any aqueduct or pipe from or through which the water supply of the city shall be drawn.

b. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or imprisonment, or both, in the discretion of the court. Such fine shall not exceed the sum of one hundred dollars, and such imprisonment shall not exceed a period of three months. Such imprisonment shall be in the jail of the county in which the offense shall have been committed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-2.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-304

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-304 Injury to water supply property.

If any person shall wilfully do or cause to be done any act by which any work, materials or property now or hereafter erected or used within the city or elsewhere by such city, or any person acting under their authority, for the purpose of procuring or keeping a supply of water shall in any manner be injured, or shall erect or place any nuisance on the banks of any river, lake or stream from which the water supply of such city shall be drawn, such person on conviction thereof, shall be deemed guilty of a misdemeanor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-2.1 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-305

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-305 Pollution of or interference with water supply.

It shall be unlawful, within the city, to bathe in or go into the water of any water supply reservoir or any part of a city aqueduct, or to throw stones, chips or dirt or any other material or substance whatever into any gatehouse, ventilator, fountain or basin. It shall also be unlawful to injure or disfigure any part of the water works system of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-2.2 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-306

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-306 Trespass on water supply property.

It shall be unlawful to enter or remain on any part of the embankment of a water supply reservoir within the city without the permission of the commissioner of environmental protection, or to fail or refuse to comply with the rules and regulations of the commissioner as to when citizens shall leave such embankment, or the grounds or buildings attached thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-3.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-307

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-307 Hydrants to be kept closed.

The commissioner of environmental protection shall cause all water supply hydrants within the city to be kept closed. Except in case of fire and for the purpose of extinguishing the same, or when otherwise authorized by law, it shall be unlawful to take or use the water from any such hydrant.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-4.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-308

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-308 Opening, tampering with or operating valves or fire hydrants.

a. It shall be unlawful for any person other than an employee of the department of environmental protection, or the fire department to open, use, operate, or tamper with a fire hydrant or high pressure hydrant, in the city, or a valve in the water supply system of the city, without a permit in writing from the commissioner of environmental protection. It shall also be unlawful to leave such a hydrant open for a longer period than shall be limited in the permit, or use water for other purposes than shall have been authorized by such commissioner.

b. The commissioner may grant a permit to a person, other than an employee of the department of environmental protection or of the fire department, to open, use or operate a fire hydrant in the city, upon such terms and conditions as may be prescribed by the commissioner and upon payment by such permittee of a fee of five dollars for each day for which such permit is granted. A permittee shall be required, at the time of making application for such permit, to pay to the department a sum sufficient to cover the total fee for the entire period for which such permit is granted. If the work for which such permit is granted is completed on a date prior to the termination date of such permit, the permittee shall be entitled to a refund of the fee paid for each day subsequent to such completion date. The commissioner may grant a permit pursuant to this section to any agency or to a non-profit organization for the purpose of providing street showers for children, without payment of the fee required by this subdivision.

c. The commissioner shall have the power, subject to the approval of the board of estimate, to increase the amount of the fee prescribed by subdivision b hereof, to an amount sufficient to cover the cost to the city of the

supervision and inspection of hydrants in connection with the granting of permits under the provisions of this section.

d. Every permittee shall open, use or operate such hydrant in accordance with such rules and regulations and such terms and conditions as may be prescribed by the commissioner for the purpose of protecting and maintaining the hydrant in a continuously accessible and usable condition. A permit granted pursuant to this section may be revoked by the commissioner for the failure by the permittee to comply with any of the terms and conditions of the permit or any applicable provision of law.

e. The opening, use or operation of a fire hydrant, under a permit issued pursuant to this section, shall be subject to inspection by an employee or employees of the department of environmental protection, duly appointed in accordance with the provisions of the civil service law, and assigned to such duties in accordance with the provisions of section eleven hundred three of the charter. The compensation of any such employee or employees shall be paid by the city in accordance with the provisions of section one hundred twenty-three of the charter. No permittee shall be required to pay the compensation of any employee, or any part thereof, as a condition to the granting of a permit for the opening, use or operation of a fire hydrant.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-5.0 added chap 929/1937 § 1

Section heading, sub a amended LL 37/1947 § 1

Amended LL 56/1955 § 1

Sub f amended chap 100/1963 § 533

Sub b repealed LL 6/1981 § 2

Subs b, c, d, e relettered LL 6/1981 § 2

(formerly subs c, d, e, f)

CASE NOTES FROM FORMER SECTION

¶ 1. Pedestrian who was injured from a fall sustained while walking on a public crosswalk caused by the leakage of a water hydrant, **held** entitled to recover damages from the City, where such condition of leakage had existed for several months before the accident, and although the City had granted a permit to bus company to use water from hydrants to fill radiators of their buses the City had recognized the necessity of making inspections to ascertain if the water was properly used as it had required the bus company to pay the salary of the inspector to be assigned by the City.-Myers v. City of N.Y., 130 (115) N.Y.L.J. (12-15-53) 1454, Col. 7 F.

¶ 2. The City was liable where it failed to repair or close a water hydrant which had been leaking for several days, with the result that the water froze and created a dangerous condition on the roadway causing injury to plaintiff.-Keogh v. City of New York, 134 (89) N.Y.L.J. (11-7-55) 9, Col. 3 T.

¶ 3. The City of New York was liable in damages to the owner of an apartment building as a result of water pouring from broken water pipes exclusively owned, operated, controlled, and maintained by the City. Furthermore, the City was not entitled to recover against an electric utility on the ground that its pipes interfered with the water pipes and mains of the City, since under the facts the City was an active wrongdoer.-First National City Bank of New York v. City

of New York, 10 Misc. 2d 479, 160 N.Y.S. 2d 942 [1957].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-309

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-309 Connections.

It shall be unlawful, within the city, to open any street, bore any pipe, or make connection with any main or pipe for water supply purposes, except under the direction of the commissioner of environmental protection.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-6.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-310

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-310 Closing of taps before building is demolished.

It shall be unlawful to demolish any building in the city without first having obtained a permit from the department of environmental protection, providing for the withdrawal of existing taps supplying the premises, in the manner specified in the permit.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-7.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-311

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-311 Obstruction of stop-cocks.

It shall be unlawful for any person to obstruct access to a stop-cock connected with a water pipe in the city, or to permit any person in his or her employ to do so.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-8.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-312

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-312 Public wells.

It shall be unlawful to dig a well in any street or public place in the city, and the commissioner of transportation shall cause it to be filled in, in all cases.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-9.0 added chap 929/1937 § 1

Amended chap 100/1963 § 534

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-313

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-313 No royalty for use of patented apparatus.

No patented hydrant, valve or stop-cock shall be used by the department of environmental protection unless the patentee or owner of the patent shall allow its use without royalty.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-10.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-314

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-314 Right of entry on lands dedicated for highway or park purposes.

a. The department of environmental protection shall at all times have the unqualified right to enter upon all lands transferred or dedicated under the provisions of chapter six hundred sixty of the laws of nineteen hundred twenty-one, for highway or park purposes, to make repairs, replacements, additions, alterations or extensions to its water mains, pipes or works and for any other use of the property necessary to the purposes for which it was originally acquired, without applying for or obtaining the consent of any other authority. The department of environmental protection shall rebuild and replace any part of the road bed thus destroyed or torn up for water supply or incidental purposes, and restore it to a condition satisfactory to the authority having jurisdiction there- over.

b. All owners of property adjacent to such strip dedicated for highway purposes shall have a right of way over every part of such land so dedicated.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-11.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-315

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-315 Permits; issuance; revocation.

The commissioner of environmental protection is authorized and empowered to issue or renew temporary permits for the use or occupation of any city property, under his or her jurisdiction. Such issuance or renewal shall be for a term not to exceed five years, for such consideration and upon such terms and conditions as the commissioner may deem necessary for the adequate protection and utilization of such property. The permit or renewal thereof shall be non-transferable; shall specifically provide that it may be cancelled by the commissioner upon thirty days' notice in writing and shall not confer any right, easement or interest in, to, over, under or across such property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-12.0 added chap 929/1937 § 1

Amended LL 94/1941 § 1

Amended chap 741/1948 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where the New York City Transit Authority was permitted to use city property to stage, park, and idle its buses under an agreement which gave the Department of Environmental Protection the privilege of canceling the permit on 30 days notice a license rather than a lease was created.-Mauldin v. N.Y.C. Transit Auth., 64 A.D. 2d 114, 408 N.Y.S. 2d 538 [1978].

CASE NOTES

¶ 1. The court granted an Article 78 proceeding brought by a community located within the Watershed, challenging the adoption by the NYC Dept. of Environmental Protection of rules governing recreational use of water supply lands and waters. DEP maintained that under Admin. Code Section 24-315, it had the authority to issue and renew temporary permits for use or occupation of any City property. In other words, DEP took the position that the regulations were merely a "management tool" rather than "watershed protection rules." However, the court held that the rules in question were designed to protect the water supply, and thus required approval of the State Department of Health under Public Health Law Sec. 1101(1). Since approval was not obtained, the regulations were not effective. IMO Town of Hunter v. City of NY 2007 NY Slip Op. 10016, 46 AD3d 1197, 853 NYS2d 387, 2007 NY App. Div. Lexis 13177 (App. Div. 3rd Dept. 13177).

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Administrative Code of the City of New York

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NYC Administrative Code 24-316

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-316 Leaking tap or service pipe to be repaired.

a. As used in this section:

1. "tap" means a connection made between a city-owned pipe or main supplying water and a service pipe.

2. "service pipe" means a pipe used to carry water from a tap to a house control valve, a building or other enclosure or a point at which the water supply is fully metered.

b. When a test made by the department of environmental protection indicates that there is a leak at a tap or in a service pipe, if conditions permit, a notice shall be served by a representative of such department upon the owner or occupant of the premises being supplied by such tap or service pipe. The notice shall direct that all necessary repairs be made to stop the leak.

c. In the event that a tap is shut off by the department because of a leak, the owner or occupant of the affected premises shall be notified that the tap has been closed and that a licensed plumber should be engaged to make the necessary repair and take charge of the street excavation. If the owner or occupant fails within three days after notice, excepting emergencies as determined by the commissioner to engage a licensed plumber, the tap shall remain closed and the department of environmental protection shall backfill the excavation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-13.0 added LL 62/1979 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-317

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-317 Lien on premises.

a. There shall be filed in the office of the department of environmental protection a record of all work caused to be performed by or on behalf of the department which relates to section 24-316 of this code. Such records shall be kept on a building by building basis and shall be accessible to the public during business hours. Within thirty days after the issuance of an order to shut off a tap, or backfill an excavation, or both, entry of such order shall be made on the records of the department of environmental protection. Such entry shall constitute notice to all parties.

b. All expenses incurred by or on behalf of the department for services performed pursuant to section 24-316 of this code shall constitute a lien upon the land and buildings upon or in respect to which, or either of which, the work required by such order has been done, or expenses incurred, when the amount thereof shall have been definitely computed as a statement of account by the department and such department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have a priority over all other liens and encumbrances except for the lien of taxes and assessments. However, no lien created pursuant to this section shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless the requirements of subdivision a of this section are satisfied; this limitation shall only apply to transactions occurring after the date such record should have been entered pursuant to subdivision a and the date such entry was made.

c. A notice thereof, stating the amount due and the nature of the charge, shall be mailed by the city collector,

within five days after such entry, to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent.

d. If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property, to be calculated to the date of payment from the date of entry.

e. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of the code and may be sold, enforced or foreclosed in the manner provided in chapters three and four of title eleven of such code or may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.

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

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. d amended L.L. 62/2005 § 14, eff. June 6, 2005.

DERIVATION

Formerly § 734(1)-14.0 added LL 62/1979 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-318

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-318 Validity of lien; grounds for challenge.

a. In any proceedings to enforce or discharge a lien created pursuant to section 24-317 of this subchapter, the validity of the lien shall not be subject to challenge based on:

(1) The lawfulness of the work done; or

(2) The propriety and accuracy of the items of expenses for which a lien is claimed, except as provided in this section.

b. No such challenge may be made except by (1) the owner of the property, or (2) a mortagee or lienor whose mortgage or lien would, but for the provisions of section 24-317 of this subchapter, have priority over the department's lien.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(1)-15.0 added LL 62/1979 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-320

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-320 City authorized to use ground under streets and highways.

All persons acting under the authority of the city shall have the right to use the ground or soil under any street, highway, or road within this state to introduce water into the city, on condition that they shall cause the surface of such street, highway, or road to be restored, and all damages done thereto to be repaired.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-1.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-321

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-321 Restriction on power to contract.

It shall be unlawful for the commissioner of environmental protection to enter into any contract with any person engaged in the business of supplying or selling water for private or public use and consumption, without the prior approval of the board of estimate. The separate written consent and approval of the proposed contract in all its details, shall be given by both the mayor and comptroller. It shall be unlawful for the city or any of its agencies to make any contract in relation to the water supply with any person, except in accordance with the provisions and requirements of the charter and this code. Such provisions and requirements are hereby declared to establish the exclusive rule for the making of such contracts. All proceedings relating to the making or approval of any such contract may be reviewed by the appellate division of the supreme court in the first or second department on the application of any resident taxpayer.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-3.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-322

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-322 Special water service for fire, sanitary and other purposes.

a. The board of estimate may make and enter into contracts and agreements for a term of years with any corporation duly organized under the laws of this state, for the furnishing of a special water service for fire, sanitary and other purposes, and for supplying water suitable therefor from any source with a pressure equal to a head of three hundred feet above tide water. Such contracts and agreements shall contain such conditions, provisions and stipulations as such board may consider necessary and proper in the interests of the city, and shall be upon such terms as it deems best. Such board, by such contract, may authorize such corporation to lay down pipes and erect hydrants in the streets of the city, under such restrictions and conditions as may be prescribed by such board.

b. Such contracts or agreements may also provide for the purchase by the city of all the rights and property secured by such corporation and the works constructed by them for furnishing water for such special purposes, when such board of estimate shall deem such purchase to be for the interest of the city. Such purchase, however, must be determined upon by such board at the expiration of five years from the date of the contract. The cost of such purchase shall be determined by arbitrators appointed by the supreme court.

c. This section and all contracts or agreements executed under its provisions, shall be construed so as not to interfere with, hinder or delay the construction and use of any works now or hereafter authorized by law, relating to procuring an increased supply of water from the Croton aqueduct system of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-4.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-323

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-323 Construction of highways and bridges in connection with reservoirs.

The city is required to build such highways and bridges as may be made necessary by the construction of any reservoir, and to forever repair and maintain such bridges.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-5.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-324

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-324 Construction of highways around middle branch reservoir.

The city is required to repair and maintain the highways built or in process of construction by the city around the new reservoir, on the middle branch of the Croton river, in the town of South East.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-6.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-325

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-325 City to erect and maintain fences to protect certain water works.

The city, at its own expense, shall erect and maintain all fences needed to protect the works upon the lands taken by the city in the county of Westchester for water supply purposes by virtue of chapter two hundred fifty-six of the laws of eighteen hundred thirty-four. It shall also erect and maintain, at its own expense, convenient passes under or across the Croton aqueduct, for farming and other uses of individually owned lands in such county intersected by such aqueduct.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-7.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-326

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-326 Regulation of use of lakes and reservoirs used for city water supply.

a. Any natural lake or any reservoir used or built by the city for water supply purposes may be used by the public for boating, cutting ice and fishing. The city and its representatives shall not prohibit such use, and they are required to afford access to such lakes or reservoirs, except that the city may prohibit such use in the event of a declaration of an emergency by the governor as hereinafter provided and except in the event of the declaration of war by or against the United States of America. The city may grant permits to boat owners for the use of boats on such lakes and reservoirs, and may prescribe rules and regulations for their proper use.

b. If any emergency shall have been declared to exist by the governor in the manner hereinafter provided in subdivision c of this section or in the event of a declaration of war by or against the United States of America, the mayor, for the duration of such emergency or of such war, may revoke, in whole or in part, the privileges set forth in subdivision a hereof and prohibit the use by the public of the lakes and reservoirs of the city. The commissioner may make reasonable rules and regulations as to the use of such reservoirs during such emergency or war period. Any such order of revocation shall define the terms and extent of revocation, and shall state the date on which it shall become effective. Any rules and regulations promulgated by the commissioner of environmental protection during such emergency shall be published once in a newspaper circulating in each of the counties in which the water supply property to be affected thereby shall be located.

c. The governor is hereby empowered to declare the existence of an emergency affecting the city's water supply

sources upon application of the commissioner of environmental protection and subject to the following conditions:

1. Notice of the application by the commissioner to have such emergency declared and of the date and place of the public hearing to be had thereon shall be published at least twice in a newspaper published in each county in which are located the sources of water supply as to which it is claimed the emergency exists and in addition written notice of such application and of the date and place of the hearing thereon shall be served on the clerk of the board of supervisors of each such county at least eight days before such hearing.

2. After such public hearing, at which all persons interested shall have an opportunity to be heard, the governor, may, if he or she deems such emergency to exist, declare the existence of such emergency affecting the city's water supply sources and fix the period for which the emergency shall be deemed to exist. The duration of such period of emergency may be extended after the giving of similar notice and after holding of a similar public hearing.

3. Notwithstanding the requirements of paragraphs one and two of subdivision c of this section, the governor shall have the power to declare the existence of an emergency affecting the city's water supply sources or any part thereof upon application of the commissioner without notice, and without a public hearing for a period not exceeding thirty days. Where such emergency is so declared, however, it shall not be extended or renewed except after notice and public hearing as provided in such paragraphs one and two.

d. In the event of the declaration of an emergency by the governor or of the declaration of war by or against the United States of America, duly designated employees of the department of environmental protection are empowered and authorized to act as peace officers in any county in which any water supply property of the city is located for the purpose of enforcing the rules and regulations promulgated by the commissioner for the period of the emergency. The department of environmental protection shall file in the office of the sheriff of each such county a certificate of appointment of each such designated employee, and shall attach to each such certificate a complete copy of the rules and regulations promulgated pursuant to subdivisions a and b of this section. Copies of all amendments of such rules and regulations shall be filed by the commissioner with each such sheriff. The sheriff of any such county may cancel any such certificate for cause, and forthwith shall mail written notice of such cancellation to the department of environmental protection, specifying the cause of such revocation. Immediately upon any such cancellation, the employee whose certificate shall have been cancelled, shall have no further authority to act as a peace officer. Each employee so appointed at all times when on duty, shall have in his or her possession a shield or other suitable badge of authority which he or she shall exhibit at once to any person upon request.

e. It shall be the special duty of the employees so appointed to prevent breaches of the peace and unlawful depredations and to arrest and bring before the proper judicial officer any person guilty of violating any of such rules and regulations.

f. Any person convicted of violating any of the rules and regulations promulgated pursuant to subdivision a of this section shall be punished by a fine of not more than ten dollars for the first offense, twenty dollars or ten days imprisonment, or both, for the second offense, or fifty dollars or fifty days imprisonment, or both, for the third or any subsequent offense.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-8.0 added chap 929/1937 § 1

Amended chap 713/1940 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-327

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-327 Regulation of use of Putnam county lakes and reservoirs used for city water supply.

Whenever the waters of natural lakes in Putnam county have been or are acquired by the city, or reservoirs have been or are constructed, the residents of such county shall have the right of boating, fishing and taking ice from such lakes and reservoirs, subject to such regulations as the commissioner of environmental protection may make from time to time to preserve the purity of the water and to prevent nuisances, and subject, however, to the right of the city to prohibit such use in the event of the declaration of an emergency as provided in section 24-326 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-9.0 added chap 929/1937 § 1

Amended chap 713/1940 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-328

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-328 Lake Mahopac; level of water not reduced.

Nothing in this chapter contained shall authorize, empower or permit any water in excess of its ordinary flow to be drawn from Lake Mahopac, in the town of Carmel, Putnam county, between the first days of March and September in any year.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-11.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-329

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-329 Interments near reservoir prohibited.

It shall be unlawful to establish any cemetery or place of burial, or burial vaults, or other place for the reception or burial of dead bodies, or to bury, or deposit in vaults, any dead body, within a distance of half a mile of any reservoir, or any ponds used for the supply of the borough of Brooklyn with water. In the county of Nassau, however, it shall be lawful to do so with the written consent of the state department of health and the commissioner of environmental protection upon such terms and conditions as may be prescribed by such commissioner. This section shall not, however, be construed to prevent burials in any cemetery already established, or grounds now held by any religious corporation or society organized under the laws of this state.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-12.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-330

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-330 Watering horses.

a. Within the city, all publicly owned watering troughs, and those erected or maintained by the American Society for the prevention of cruelty to animals, shall be provided with the necessary piping and fixtures to enable the filling of pails with water therefrom, or otherwise modified in construction so as to meet the requirements of the board of health. The supply of water for such troughs shall be furnished by the department of environmental protection. All other horse-watering troughs on streets and public places in the city shall likewise be provided with the piping and fixtures necessary to enable the filling of pails with water, and the use of the water for that purpose shall be paid for. All horse-watering stations in streets and public places hereafter constructed or operated, shall conform to the provisions of this section. It shall be unlawful to draw water from such fixtures except to water horses or other animals. It shall be unlawful to tamper with such fixtures.

b. Every commercial vehicle to which a horse is attached, while on the public thoroughfares of the city, must be provided with a watering pail, which shall be used for the purpose of watering or feeding the horse or horses attached to the vehicle.

c. The provisions of this section shall not prevent the establishment of temporary relief stations for watering horses in conformity with such requirements as may be imposed by the board of health, with the consent of the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-13.0 added chap 929/1937 § 1

Sub d repealed LL 70/1983 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 24-331

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-331 Sale of water; license.

It shall be unlawful for any person, except when licensed by the commissioner, to take water from any hydrant or water connection erected, or to be erected in the city, and attached to the water pipes, to be used on any boat, vessel, barge or piledriver, or to be sold or offered for sale to the owner of any boat, vessel, barge, or pile-driver.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(3)-1.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-332

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-332 Use of water through hose.

It shall be unlawful for any person to wash any street, sidewalk, areaway, steps, building or other place in the city by means of a hose or piping, or to use water through a hose or sprinkler for watering lawns or gardens, or to operate any outside shower where the water runs upon a street, sidewalk, or other public place between the first day of November and the last day of March following.

HISTORICAL NOTE

Section amended L.L. 39/2006 § 13, eff. Dec. 16, 2006. [See § 17-315 Note 1]

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(3)-2.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-334

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-334 Water meters; when to be placed.

a. (1) The commissioner is authorized to install or cause to be installed water meters, the pattern and maximum price of which shall be approved by the board of estimate in any or all stores, workshops, hotels, lodging houses, factories, office buildings, and public edifices, at wharves, ferry houses, and stables, and in all places in which water is furnished for business consumption and in any or all new or substantially improved or altered dwellings. When authorized thereto by resolution of the board of estimate or by local law, the commissioner may install such meters in any or all other multiple dwellings, and he or she shall install such meter or meters or cause them to be installed upon written demand of the owner of any lot or premises to which such water is supplied.

(2) For purposes of this subdivision an improvement or alteration is a physical change in an existing structure, other than painting, ordinary repairs and normal replacement of maintenance items. A structure shall be deemed to have been substantially improved or altered where:

(a) the cost of improvement or alteration exceeds the sum of one hundred fifty thousand dollars; or

(b) fifty percent or more of the dwelling units or square feet of the structure in multiple dwellings are improved or altered and the cost of such improvement or alteration exceeds the sum of fifteen thousand dollars per dwelling unit; or

(c) there has been a conversion in the use of the structure.

b. Thereafter, as shall be determined by the commissioner, the department shall make out all charges for water furnished by such department to such premises in ratable proportion to the water furnished, as ascertained by meter, subject to such minimum and service charges as may be established. All expense and cost of meters, and their connections, and of their setting, repair and maintenance, unless with the approval of the board of estimate such expense and cost be borne by the department, shall be a charge and lien upon the premises.

c. This section shall not, however, be construed so as to remit or prevent the due collection of arrearages or charges for water consumption heretofore incurred, nor interfere with the proper liens therefor, nor of charges, or rates, or liens hereafter to be incurred for water consumption in any building or place which may not contain one of the meters aforesaid. The moneys collected for service charges and for expense and cost of meters and their connections, and for setting, repairing, maintaining and replacing the same, may be applied by the commissioner to the payment of expenses incurred in procuring meters and their connections and in their setting, repair, maintenance and replacement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended LL 53/1985 § 1

(special provision, applicability of law, LL 53/1985 §§ 2, 3)

DERIVATION

Formerly § 734(4)-1.0 added chap 929/1937 § 1

Sub a amended LL 42/1947 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. A regulation promulgated by the Commissioner of the Department of Water Supply, Gas and Electricity, providing that water meters shall be accepted for repair by a water meter repair company only from the owner of the meter or a licensed plumber holding the meter repair permit and shall not be accepted through plumbing supply houses was held invalid and unconstitutional and no authority for it can be found either under this section or § 737 of the Charter.-Frank's Supply Corp. v. Quilty, 182 Misc. 921, 49 N.Y.S. 2d 943 [1944].

¶ 2. Commissioner of Water Supply, Gas and Electricity in the City of New York, **held** without authority to require installation of a water meter in the automatic sprinkler system being installed in plaintiff's five-story building at 25 Bowery, Manhattan, consisting of a basement rented to a laundry supply, a first floor to a clothing dealer, and the second, third, fourth and fifth floors being operated by the owner as a lodging house. Under Multiple Dwelling Law § 66 lodging houses are required to install sprinkler systems for fire purposes but such section does not require installation of a water meter. Also, the operation of the lodging house did not constitute the use of the premises as a business enterprise within Administrative Code § 734(4)-1.0 and rule 43 of the Rules of the Department, which authorize installation of meters in all places in which water is furnished for business consumption. The test was not for what purpose the owner used the premises but for what use the occupants used it, and this was merely for domestic purposes. Furthermore, a lodging house was not a "hotel" within meaning of § 734(4)-1.0.-Lyoles Realty Corp. v. Cannella, 73 N.Y.S. 2d 10 [1947].

¶ 3. Where Administrative Code § 734(4)-1.0 had been amended to include therein "lodging houses", following a ruling of the court that the Department of Water Supply, Gas and Electricity in the City of New York was without authority to require installation of a water meter in the automatic sprinkler system being installed in plaintiff's building

on ground that plaintiff's use of its building as a lodging house was not for business purposes within meaning of § 734(4)-1.0 and Rule 43 of the Rules of the Department, the subsequent communication sent to plaintiff by Commissioner of the Department directing it to install a water meter at its premises did not violate the injunction issued in connection with the previous determination restraining the Commissioner from requiring installation of meter. That Rule 43 of the Department's rules remained unchanged was immaterial.-Lyoles Realty Corp. v. Cannella, 118 (121) N.Y.L.J. (12-5-47) 1612, Col. 5 T.

¶ 4. Use of premises partly as a lodging house and partly for other business was not a use "for combined business and domestic purpose", such as would require plaintiff to install a water meter in the building under rule applicable to buildings used for combined business and domestic purposes.-N.H. Lyons & Co. v. Cannella, 82 N.Y.S. 2d 174 [1948], aff'd, 275 App. Div. 705, 88 N.Y.S. 2d 247 [1949].

¶ 5. Where plaintiff's tenant, without his knowledge, installed pipes and connected them with the City water supply in connection with the operation of an illegal alcohol distillery, the City was not entitled to a lien for water and repair charges, since under the circumstances it cannot be said that "the charge was incurred and the lien became operative with the assent of the plaintiff", as required by the decision of Dunbar v. City of New York (177 A.D. 647, 164 N.Y.S. 519 [1917], aff'd, 223 N.Y. 597, 135 N.E. 933 [1918], aff'd, 251 US 516 [1920]).-Cirillo Bros. Land Corp. v. City of New York, 7 Misc. 2d 527, 163 N.Y.S. 2d 767 [1957].

¶ 6. Charity which owned fourteen-story building part of which was used for charitable and part for non-charitable purposes was not entitled to a partial or total exemption from water or sewer charges absent installation of separate meters that would apportion the charges between the charitable and non-charitable uses of the building.-In re Grace Institute (Clark) 163 (85) N.Y.L.J. (5-5-70) 2, Col. 2 T.

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Administrative Code of the City of New York

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NYC Administrative Code 24-335

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-335 Charges where supply is metered.

No charge for the supply of water other than a meter charge, minimum charge or annual service charge shall be made against any houses or lots or any portion or portions thereof where a water meter may have been or shall be placed. In all cases where a water meter may have been or shall be placed, the charge for supply of water shall be determined only by the quantity of water actually used, as shown by such meters, except for a minimum charge or an annual service charge and except as provided by subdivision four of section seven hundred thirty-four of the charter.*19

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-2.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where, after acquisition by City through condemnation proceedings of the property of the New York Water Service Corporation, with exception of the water meters, the City sent a notice through its Department of Water Supply, Gas and Electricity, stating that water used for domestic purposes might be paid for by an annual frontage charge or by

meter measurement with the consent of the Department, and requesting the consumer to state whether he elected to pay by meter measurement or on an annual rent basis, a consumer which neither executed nor returned the notice might not be deemed by the City to have elected to be charged on a water meter basis, and hence such consumer might obtain return of any moneys collected in excess of any tax due on an annual rate basis.-Kingswood Mgt. Corp. v. City of N.Y., 125 (105) N.Y.L.J. (5-31-51) 2017, Col. 5 T.

¶ 2. Where under terms of lease plaintiff was obligated to pay as "additional rent" water charges for water consumed on premises and billings averaged about $100 a year it was not liable for a water bill of $11,722.73 for the period of February 10, 1972 to Nov. 24, 1972 where bill was due to a subterranean break in a water pipe located about $21/_2$ feet below the basement which no one was aware of until Nov. 17, 1972.-Emerson Plastronics, Inc. v. City of N.Y., 173 (118) N.Y.L.J. (6-19-75) 16, Col. 2 F.

FOOTNOTES

19

[Footnote 19]: * Charter § 734 was repealed by L.L. 69/1968 § 2.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-336

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-336 Acquisition of water meters.

The commissioner may acquire any water meters installed upon premises connected with the public water supply, from private owners, with the approval of the mayor, upon such terms and subject to such rules and regulations as the mayor may approve.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-3.0 added chap 929/1937 § 1

Amended chap 100/1963 § 539

NYC Administrative Code 24-337

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-337 Waste of water prohibited; remedies.

a. It shall be unlawful for water to be wasted, whether owing to leak or wasteful condition, regardless of fault, from any water pipe, valve, faucet, conduit, equipment, facility or device connected to the city water system or which utilizes city water. It shall be the duty of an owner, lessee, agent, manager, operator and of any other person in charge of or who has control over any premises, plant, equipment, facility, device or operation to make frequent regular inspections so as to minimize the likelihood of leak or waste and within a reasonable time after the discovery or notification of any leak or wasteful condition to effect repairs or take other appropriate corrective action within the power of such person. The commissioner of environmental protection shall promulgate such reasonable rules and regulations as the commissioner may from time to time deem appropriate for the prevention of the waste of water.

b. In addition to enforcement pursuant to section 24-346 the commissioner may serve a leak and waste notice upon any person having a duty to repair or correct a leak or wasteful condition or upon any person in violation of the rules and regulations for the prevention of the waste of water. Such notice shall specify the repair or correction to be made and shall fix a reasonable time for compliance. Where such notice has been served and water continues to be wasted after the time for correction has expired, the commissioner may, after notice and an opportunity for a hearing before the commissioner or his or her designee, turn off the water supply to the premises or impose a penalty not to exceed fifty dollars per day for each day that water continues to be wasted after the expiration date contained in the notice, or both. Any penalty imposed pursuant to this section may be added to the water rents; except that no such penalty may be imposed against any property unless both the leak and waste notice and notice of the proceeding to

impose the penalty was served upon the owner by mailing copies thereof to the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills at the address on file for such purpose or where no name appears to the property addressed to "owner" or "agent" and such person has had an opportunity to be heard.

The provisions of this subdivision shall not be construed to limit the commissioner's power to shut off water supply without notice, or with such notice as the commissioner may deem practicable, where a leak exists; or where emergency action is otherwise deemed essential.

c. The department shall establish or reestablish a permanent committee on water conservation (the "committee") within six months of the effective date of this section consisting of outside experts, representatives of public interest, environmental and professional groups and interested citizens, two of whom shall be appointed by the city council and the rest shall be appointed by the commissioner. The members of the committee shall serve without compensation for a term of three years. The commissioner shall be the chairman.

d. Within one year after the effective date of this section, and annually thereafter, the committee shall submit to the city council a report evaluating the effectiveness of paragraphs a through e, of subdivision P.104.2 of section P.104.0 of RS 16 describing the latest available water-conserving fixtures, and including written recommendations. The department shall make available to the committee any and all information useful and necessary for the committee to prepare and complete the report for submission to the city council. To prepare such report the committee shall utilize any information and/or materials determined to be pertinent that have been published, distributed or in any other manner made available from state agencies, public and private research groups, multistate agencies such as the Delaware River Basin Commission, and other similar public or private agencies or groups with expertise with respect to water-conserving plumbing fixtures. The report shall include, but not be limited to:

(1) a review of compliance with paragraphs a through e, of subdivision P.104.2 of section P.104.0 of reference standard RS 16 of the appendix to chapter one of title twenty-seven of this code, the impact of such compliance, and the relationship of the standards set forth herein to current technology;

(2) recommendations as to the feasibility of requiring more stringent water-saving performance standards than provided in paragraphs a through e of subdivision P.104.2 of section P.104.0 of reference standard RS 16.

e. The department shall establish a city-wide comprehensive public information campaign focusing on water-conserving fixtures, the benefits of good water-saving equipment, and the opportunity for rapid pay-back and long-term money savings, especially in energy costs, for home owners and landlords. Within six months after the effective date of this section, a proposal for the public information campaign shall be submitted to the city council for review and commentary. The department shall report annually to the city council on the status of the public information campaign.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. (c), (d), (e) added LL 29/1989 § 5

DERIVATION

Formerly § 734(4)-4.0 added chap 929/1937 § 1

Amended LL 62/1950 § 1

Repealed and added LL 70/1983 § 4

CASE NOTES FROM FORMER SECTION

¶ 1. Order of Commissioner of Department of Water Supply, Gas and Electricity of City of New York, prohibiting the washing of automobiles until further notice, would not be annulled on petition of operator of an auto laundry, as the ban on car washing was not arbitrary in view of the water famine, and property rights must yield to the safety and comfort of the people.-In re Caton Dahill Minute Auto Laundry, Inc. (Carney), 196 Misc. 947, 93 N.Y.S. 2d 819 (1950), aff'd, 276 App. Div. 953, 96 N.Y.S. 2d 345 [1950].

¶ 2. Defendant, who was president of the tenant corporation and was in personal charge of the premises on occasions of the inspector's visits, **held** guilty of violating Local Law No. 62 prohibiting the willful waste of water, where on two occasions when the inspector visited defendant's plant he saw water pouring through a hose into a trench and down the drain for a period of 15 minutes on each occasion and defendant, although his attention was called to the waste, made no attempt to stop the flow.-People (Begley) v. Morgen, 102 N.Y.S. 2d 267 [1951].

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Administrative Code of the City of New York

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NYC Administrative Code 24-338

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-338 Meters to be installed where water is wasted.

The commissioner is authorized to install or cause to be installed a meter or meters in any premises where repeated violation notices to prevent waste of water are necessary, or where the owner fails to comply with waste of water violation notices.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-4.1 added LL 62/1950 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-339

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-339 Water saving plumbing fixtures.

a. It shall be unlawful for any person to distribute, sell, offer for sale, import or install any plumbing fixture which does not meet the standards of subdivision P.104.2 of section P.104.0 of reference standard RS sixteen.

b. An owner who has installed a shower head in a class A dwelling unit which meets the standards of subdivision P.104.2 of section P.104.0 of reference standard RS sixteen shall not be required to replace any such device which is stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit but shall replace such device prior to the commencement of a new occupancy of such dwelling unit. Notwithstanding the provisions of section 27-2005, it shall be the sole duty of the occupant of each dwelling unit in a class A multiple dwelling in which such a shower head has been provided and installed by the owner to replace such devices which are either stolen, removed, missing or rendered inoperable during the occupancy of such dwelling unit. The meaning of terms used in this subdivision shall be as defined in chapter two of title twenty-seven of this code.

HISTORICAL NOTE

Section added L.L. 29/1989 § 7.

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NYC Administrative Code 24-341

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-341 Charges not to be affected.

Nothing contained in sections 24-335 through 24-337 of the code shall be construed to prevent the imposition of charges in accordance with schedules, rules or regulations heretofore adopted or the performance of any act required or authorized under such schedules, rules or regulations or under the provisions of sections 24-335 through 24-337, 11-301, 11-312 and 11-314 of the code, nor to affect or invalidate charges heretofore imposed, or hereafter to be imposed as herein provided, nor to prevent the due collection of such charges or interfere with the liens thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-5.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-342

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-342 Connection charges.

All persons contracting for a supply of water within the city, shall pay the cost of the materials and labor used and expended in the streets, necessary to make the connection with the conduit pipes, as required by the rules and regulations of the commissioner of environmental protection.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-6.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-343

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-343 Transfer of house service pipe connection to new water main.

a. In instances where the city has laid a water main in a street where surface grades have been established but where the surface has not been improved to the established grade and when a new water main is installed by the city because it is required by the grading of such street to the established grade, the commissioner of environmental protection shall issue an order directing the owner of each house which was directly connected with the main as previously laid, to transfer the house service pipe connection to the new main, at the expense of such owner when required in accordance with the rules and regulations of the commissioner.

b. When a new water main is installed by the city to replace a private main, the commissioner shall issue an order directing the owner of each house fronting on the city main and receiving water from such private main to transfer the house service pipe connection to the city main, at the expense of such owner and in accordance with the rules and regulations of the commissioner.

c. An order issued pursuant to this section shall be served upon the owner of the premises, by registered mail sent to the address registered by such owner in the bureau of city collections in the department of finance, or if no address is registered in such bureau, by registered mail sent to the last known address of such owner, or to the address of such owner as shown on the records in the office where conveyances of real property are recorded pursuant to law.

d. If the transfer is not made within ten days after the mailing of such order, the department of environmental

protection may make such transfer through its officers, agents or contractors. The owner shall be personally liable for the expenses and disbursements incurred by the department in making such transfer. The amount of such expenses and disbursements shall be due and payable when definitely fixed by the commissioner of environmental protection and entered upon the records in the office of the city collector. A notice stating the amount due and the nature of the charge shall be mailed by the city collector within five days after such entry to the address registered by such owner in the bureau of city collections in the department of finance, or if no address is registered in such bureau, to the last known address of the owner of such property or to the address of such owner as shown on the records in the office where conveyances of real property are recorded pursuant to law. If such amount is not paid on or before the last day of the month following the month of entry, it shall be the duty of the city collector to charge, collect and receive interest thereon at the rate of seven per cent per annum to be calculated to the date of payment from the date of entry. The amount of such expenses and disbursements and the interest thereon shall be a lien upon the premises for which the transfer of the house service pipe connection was made, and shall be enforced and collected in the manner provided in chapter three of title eleven of this code for the enforcement and collection of water rents and the lien thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-6.1 added LL 58/1947 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 24-344

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-344 Report of receipts by clerk in bureau of water register.

The clerk of the bureau of water register assigned to collecting, on each day, except Sunday of each week, shall render to the comptroller an account, under oath, of all moneys received by him or her, showing the amounts received from all classes of revenue and shall, thereupon, pay over the amounts so received to the commissioner of finance, furnishing to the comptroller a receipt showing the payment of such sums into the city treasury.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(4)-7.0 added chap 929/1937 § 1

Amended chap 100/1963 § 540

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-345

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-345 Pay-as-you-go financing for certain water pollution control projects.

a. Subject to the provisions of subdivision c and subdivision d of this section, for the fiscal year commencing July first, nineteen hundred seventy-seven and for each succeeding fiscal year, a direct mandatory budget appropriation shall be made for the city's per centum share of the costs of the north river water pollution control project, the oakwood beach water pollution control project and the red hook water pollution control project payable during such fiscal year.

b. The budgetary appropriations made to pay part of the annual costs of such projects shall be in amounts consistent with the requirements of any final judgment, decree or order of any federal court which sets forth a schedule for the completion of such projects.

c. For the fiscal year commencing July first, nineteen hundred seventy-seven, such appropriation shall not exceed the sum of eight million dollars.

d. The aggregate amount of such annual appropriations shall not exceed the sum of seventy-nine million dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 117a9-1.0 added LL 43/1977 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-346

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 1 WATER SUPPLY TO THE CITY OF NEW YORK

§ 24-346 Enforcement and penalties.

a. Notwithstanding any other provision of law, the commissioner of environmental protection and the environmental control board shall enforce the provisions of this chapter and chapter four of this title and the regulations promulgated pursuant thereto or pursuant to section fourteen hundred three of the New York city charter as hereinafter provided. Such commissioner and board shall have the power to issue such orders as may be provided for herein and such additional orders as may be necessary for the enforcement of such provisions.

b. Any person who violates or fails to comply with any of the provisions of this chapter and chapter four of this title or any order, rule or regulation issued by the board or commissioner or with the conditions of any permit issued by the commissioner within the city of New York shall be liable for a civil penalty of not less than fifty nor more than one thousand dollars for each violation. In the case of a continuing violation each days continuance shall be a separate and distinct offense. The environmental control board shall have the power to impose such civil penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such board. Such board, after a hearing as provided by the rules and regulations of the board, shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgments pursuant to subdivision d of section one thousand forty-nine-a of the New York city charter. A civil penalty imposed by the board may also be collected in an action brought in the name of the city in any court of competent jurisdiction. The board, in its discretion, may, within the limits set forth in this subdivision, establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense.

c. In addition to the civil penalties set forth in subdivision b of this section and except as otherwise specifically provided, any person who knowingly violates or fails to comply with any provision of this chapter and chapter four of this title or any order, rule or regulation issued by the commissioner or board or with the conditions of any permit issued by the commissioner shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty nor more than one thousand dollars, or by imprisonment not exceeding thirty days, or both for each violation. In the case of a continuing violation each days continuance shall be a separate and distinct offense.

d. 1. In the case of any continued or knowing violation of any of the provisions of this chapter and chapter four of this title or any order, rule or regulation issued by the board or commissioner or of the conditions of any permit issued by the commissioner within the city of New York or where the board finds that the violation of any of such provisions or of the conditions of any such permit presents or may present a danger to the water supply or the water supply system, the board after notice and the opportunity for a hearing in accordance with the rules and regulations of the board, may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility, device, equipment, installation or operation to cease and desist from any activity or process which causes or is conducted so as to cause such violation within the time specified in such order.

2. Such order may provide that if the order is not complied with or so far complied with as the commissioner of environmental protection may regard as reasonable within the time specified therein, the commissioner may take such action as shall be specified therein, including but not limited to:

(a) sealing, blocking or inactivating any equipment, facility or device; or

(b) terminating the water supply.

For such purpose the commissioner or his or her deputies or such other officers or employees as are designated by the commissioner may enter on any public or private property.

e. 1. Whenever the commissioner has reasonable cause to believe that a violation of the provisions of this chapter and chapter four of this title or any order, rule or regulation issued by the board or commissioner or in violation of the conditions of any permit issued by the commissioner within the city of New York creates or may create an imminent danger to the water supply or to the water supply system or to the public health or to the life or safety of persons, the commissioner may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility, device, equipment, installation or operation to take such action as may be necessary to halt or prevent such violation.

2. If service of the order cannot be made personally because such person cannot be located at such time then service may be made by delivering a copy to a person of suitable age and discretion at the residence or place of business of the person sought to be served. If service cannot be made personally or by such delivery to a person of suitable age and discretion because of inability to locate or to obtain the name or address of such person at such time, service may be made by conspicuously posting a copy of such order upon the property to which it relates. The posting of such order shall be sufficient notice of such order to all persons having a duty in relation thereto under the provisions of this subdivision.

3. If the order is not complied with or so far complied with as the commissioner may regard as reasonable, within the time specified therein the commissioner may act to halt or prevent such violation by:

(a) sealing, blocking or otherwise inactivating any equipment, facility or device;

(b) terminating the water supply; or

(c) any other means or method that is reasonable under the circumstances. For such purpose the commissioner or his or her deputies or such other officers or employees as are designated by the commissioner may enter on any public

or private property.

4. Any person affected by such an order may make written application to the environmental control board for a hearing. Such hearing shall be provided, pursuant to the rules and regulations of the board, and shall be held within forty-eight hours after the receipt of such application. The board may suspend, modify or terminate such order.

f. If the respondent fails to comply with any order issued by the board or commissioner or with the conditions of any permit, or the board or commissioner otherwise deems it necessary, the corporation counsel, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any order or permit issued by the board or commissioner.

g. Any person who violates or fails to comply with any of the provisions of this chapter and chapter four of this title or any order, rule or regulation or with the conditions of any permit issued by the commissioner shall be liable to the city for any expense, loss or damage suffered by the city by reason of such violation.

h. Unless otherwise specifically provided, service of any notice or order may be made either personally or by mail addressed to the last known address of the person to be served.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended L.L. 35/2008 § 7, eff. Sept. 11, 2008. [See Charter

§ 1049-a Note 1]

DERIVATION

Formerly § 734(4)-8.0 added LL 70/1983 § 6

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-347

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-347 Commissioner of environmental protection to submit forms of contracts and specifications for approval of corporation counsel.

Upon the filing of the oath of the commissioners of appraisal in the manner hereinbefore provided, the commissioner of environmental protection shall, from time to time, as the commissioner may determine, prepare and submit to the corporation counsel, forms of contracts and specifications for the doing of the work and the furnishing of the material required to be done and furnished by such approved plan, or for the doing of such parts of such work and the furnishing of such parts of the materials as the commissioner may from time to time determine. The forms of contracts, specifications and bonds for the faithful performance shall be subject to approval as to form by the corporation counsel, which approval shall be endorsed thereon or attached thereto. The commissioner is hereby given the exclusive authority to determine what provisions shall be embodied in such contracts.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-27.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1375

(formerly § K41-27.0)

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Administrative Code of the City of New York

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NYC Administrative Code 24-348

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-348 Advertisement for sealed bids or proposals for work or materials; publication.

When the form of any contract with its specifications and the form of bond for the performance thereof shall have been approved as provided for in section 24-347, the commissioner shall advertise for sealed bids or for proposals for the doing of the work or the furnishing of the materials called for in such approved form of contract. Such advertisment shall be published in the City Record and in two daily newspapers published in the city, to be designated by the commissioner, for at least fifteen days consecutively before the time fixed for the closing of the bid box.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-28.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1376

(formerly § K41-28.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-349

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-349 Receipt of sealed bids; deposit required.

All bids or proposals which may be sent in answer to the invitation of such advertisement shall be enclosed in a sealed envelope and delivered to the commissioner or to such person as may be designated by the commissioner to receive the same, who shall, upon receipt thereof, forthwith and in the presence of the person offering such bid, deposit it in a box provided for the receipt thereof. But no bid or proposal shall be so received or deposited unless at the time of such presentation there shall be deposited with the person as aforesaid designated a certified check upon a national or state bank, drawn to the order of the comptroller, to an amount not less than five percent of the amount of the bond or security required by such approved form for the faithful performance of the work or furnishing of the materials required to be done or furnished. Such amount need not, however, in any case, exceed one hundred thousand dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-29.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1377

(formerly § K41-29.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-350

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-350 Public opening of bids, acceptance; rejection; readvertisement.

After the expiration of the time limited in the advertisement, such bids or proposals shall be publicly opened by the commissioner and he or she may select the bid or proposal, the acceptance of which will, in the commissioner's judgment, best secure the efficient performance of the work, or the commissioner may reject any or all of such bids. In case of the rejection of all bids, the commissioner shall readvertise such contract, and shall receive and dispose of the bids tendered under such advertisement in the manner hereinbefore provided. In case any work shall be abandoned by any contractor, or the contractor's contract terminated pursuant to the provisions thereof, it shall be readvertised and relet in the manner provided for in this subchapter for the original letting of such work, except that in such a case, the board of estimate by a two-thirds vote may order otherwise, and may authorize, upon the recommendation of the commissioner, the completion of the work in such manner and by such means as the commissioner deems appropriate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-30.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1378

(formerly § K41-30.0)

Amended chap 824/1975 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-351

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-351 Return or forfeiture of deposits.

Within three days after the decision as to who shall receive the contract, the comptroller shall return all the deposits made to the persons making the same, except the deposit made by the bidder to whom the contract shall be awarded; and if the bidder to whom the contract is awarded shall refuse or neglect, within ten days after due notice that the contract has been awarded, to execute the same, and furnish the security required, the amount of deposit made by the bidder shall be forfeited to and be retained by the city as liquidated damages for such neglect or refusal and shall be paid into the general fund, but if such bidder shall execute the contract, and furnish the security within such time, the amount of the bidder's deposit shall be returned to the bidder.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-31.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1379

(formerly § K41-31.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-352

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-352 Execution and filing of contracts; supervision and inspection of work and materials; employer's bond.

The contracts, when so awarded, shall be executed in triplicate by the contractor or contractors on the one part and the commissioner acting for the city, on the other part. One of such originals shall be delivered to the contractor, and the other two shall be filed, one in the finance department and the other with the commissioner. The work and materials called for by such contract shall be done and furnished under the direction and supervision, and subject to the inspection of the commissioner, the commissioner's engineers, supervisors and inspectors. No contract shall take effect until the commissioner shall certify thereon in writing that the commissioner's acceptance will, in the commissioner's judgment, best secure the public interest and the efficient performance of the work therein mentioned.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-32.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1380

(formerly § K41-32.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-353

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-353 Obligations for capital projects; proceeds for operating expenses.

Expenditures made or incurred by the commissioner of environmental protection shall not be considered operating expenses but shall be deemed to be part of the acquisition, construction or addition to a water supply or distribution system and may be financed in the same manner as the acquisition, construction or addition to a water supply or distribution system.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B10-2.0 added chap 929/1937 § 1

Amended chap 710/1943 § 570 (Part 3)

Renumbered chap 100/1963 § 191

(formerly § 251-1.0)

(chap 100/1963 § 191 cites chap 338/1945 which is not true)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-354

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-354 Work and materials to be procured by contract; exceptions; certificate of public interest.

a. All work hereby authorized to be done and all materials hereby authorized to be furnished involving an expenditure of over one thousand dollars, shall be procured by contract made in the manner required by and pursuant to the provisions of this subchapter. The commissioner of environmental protection, however, may without contract cause such surveys to be made and such maps, plans and estimates to be prepared, as shall, in his or her opinion, be necessary to carry out the provisions of this subchapter, and may appoint and fix the compensation of suitable engineers and other persons to supervise and inspect all work hereby authorized to be done. The commissioner of environmental protection may procure any work to be done without contract, not involving an expenditure of over five thousand dollars, if the commissioner certifies that in his or her opinion, it is for the public interest that such work be done; and in such certificate the commissioner shall state his or her reasons therefor.

b. Notwithstanding any inconsistent provisions of this subchapter or of any general or special law, the commissioner of environmental protection, during the existence of a state of war between the United States of America and the governments of Germany, Japan and Italy, or any of them, and for six months immediately following the termination thereof, may procure or contract for, without public letting, any equipment or materials necessary for the completion of the Delaware aqueduct and appurtenant structures and for any work to be done in connection with the installation of such equipment or materials if the commissioner certifies that in his or her opinion, it is in the public interest that any such equipment or material be procured or contracted for or any such work be done, without public letting, and any such certificate of the commissioner shall state his or her reasons therefor. Any such certificate shall be

filed in the office of the comptroller of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-35.0 added chap 929/1937 § 1

Amended chap 492/1942 § 1

Renumbered chap 100/1963 § 1382

(formerly § K41-35.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-355

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-355 Police protection to inhabitants of construction areas; appointment and dismissal of police; powers and duties.

a. It shall be the duty of the commissioner of environmental protection to provide proper police protection to the inhabitants of the localities in which any work may be constructed under the authority of this subchapter during the period of construction, against the acts or omissions of persons employed on such works or found in their neighborhood. To that end the commissioner is authorized and required to appoint a sufficient number of persons to adequately police such localities for such periods. The commissioner shall also have power to remove such persons and to fix or change their compensation in his or her discretion, which compensation shall be paid by the city upon a certificate of the commissioner, as part of the expense authorized to be incurred by this subchapter.

b. The commissioner of environmental protection shall give to each person so appointed a certificate of appointment and certified copies thereof, one of which shall be filed in the office of the sheriff of each county in which any work shall be in process of construction under this subchapter and in which such person shall be authorized to perform that person's duties. Each person so appointed shall be and have all the powers of a peace officer in the county where any work is being constructed under the authority of this subchapter. Such person shall at all times when on duty wear upon his or her clothing or have in his or her possession a shield or other suitable badge of authority which such person shall at once exhibit to any person asking therefor.

c. It shall be the special duty of the persons so appointed to prevent breaches of the peace and unlawful depredations and to arrest and bring before the proper magistrates persons employed on such works or found in the

vicinity thereof, who are guilty of offenses against the law punishable by death, imprisonment or fines, or persons whom they may have reasonable cause to believe to be guilty of such offenses.

d. The sheriff of a county wherein a certificate of appointment of any such person as a peace officer is filed may cancel such certificate for cause, and shall immediately give notice in writing of such cancellation to the commissioner of environmental protection, specifying the cause of such revocation. Such notice may be given by mail. On such cancellation the authority of such person as a peace officer shall immediately cease.

e. Any expense necessarily incurred by a county, town or city in a criminal action or proceeding against any person employed on any works constructed or in process of construction under this subchapter, or in the suppression of riots among persons employed on such work, or in the prevention of the commission of crime by such person, after being duly audited, as required by law, shall constitute a claim in favor of such county, town or city against the city of New York and an action may be maintained on such audit as for money paid to the use of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-36.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1383

(formerly § K41-36.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-356

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-356 Construction and repair of highways and bridges; rules and regulations to prevent improper use.

a. The city is hereby required to build and construct such highways and bridges as may be made necessary by the construction of any reservoir under this subchapter, and to repair and forever maintain such additional highways and bridges and to remove the snow and to sand the highway surfaces whenever necessary, except such as shall be part of any state route; and in case any bridge or highway thus constructed shall cross any railroad, it shall do so above or below such railroad and not upon the same level. The plans and specifications for any highways required to be constructed under the provisions of this section shall be approved by the state department of transportation.

b. The commissioner of environmental protection shall make such reasonable rules and regulations, not in conflict with the highway law, as may be necessary to prevent improper and destructive use of highways and bridges constructed under the provisions of the water supply laws of the city of New York. Provided, however, that the commissioner of environmental protection shall have no greater authority in respect thereto than is now, or may hereafter be, vested by the highway law of the state of New York in the town, county or state authorities in relation to the construction and regulation of town, county and state highways. Any individual or corporation failing to observe such rules and regulations shall be guilty of a misdemeanor and, in addition, shall be liable for actual damages to such highways and bridges, to be recovered by the city.

c. The state commissioner of transportation, in his or her discretion, shall have the power to perform, at the request of the commissioner of environmental protection and at the expense of the city, any work of original

construction of substituting routes required to be performed by the city pursuant to this section. Whenever the state commissioner of transportation shall grant such a request of the commissioner of environmental protection, he or she shall prepare and submit to such commissioner of environmental protection for his or her approval an estimate of the cost of performing such work. Such estimate of cost shall be an estimate of the cost of performing such work of construction pursuant to plans, designs and specifications prepared by the commissioner of environmental protection and approved by the state commissioner of transportation, and shall include all costs in connection with performing such work, including the costs of engineering, auditing and administration. Upon approval of such estimate by the commissioner of environmental protection, the city shall thereupon deposit with the state comptroller, who is authorized to receive and accept the same, for the purpose of this subdivision, a sum of money equal to such estimate, which shall be subject to the draft or requisition of the state commissioner of transportation and a copy of the resolution of such commissioner of environmental protection authorizing such deposit shall be filed with the state commissioner of transportation and with the state comptroller. If, at any time prior to the award of a contract for the performance of such work or prior to the state commissioner of transportation becoming obligated to award such a contract, it appears to such commissioner of environmental protection that the state commissioner of transportation, for any reason, will be unable to award a contract for the performance of such work or that it is undesirable that such a contract be awarded, any sum or sums so deposited by the city, less the amount of cost which the state commissioner of transportation has already incurred, if any, shall be refunded to the city by the state comptroller upon demand of such commissioner of environmental protection made to the state comptroller and to the state commissioner of transportation. The performance of any such work of construction shall be by contract, to be let, so far as practicable, in the manner provided by section thirty-eight of the highway law, which section shall, so far as practicable, apply to contracts hereunder and payments thereon. Such contract shall be subject to and in conformity with such plans, designs and specifications of the commissioner of environmental protection. No contract shall be executed for any such work until satisfactory proof has been furnished to the state commissioner of transportation that the city has made available any real property required and any easements deemed necessary. When work performed by the state commissioner of transportation hereunder has been completed and the cost thereof paid, the state commissioner of transportation shall render to the commissioner of environmental protection an itemized statement showing in full (a) the amount of money which has been deposited by the city with the state comptroller in connection with such work, and (b) all disbursements made by the state commissioner of transportation in connection with the performance of such work. Any surplus money shall be paid to the city upon the warrant of the state comptroller upon vouchers therefor approved by the state commissioner of transportation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-37.0 added chap 929/1937 § 1

Sub b amended chap 674/1939 § 1

Sub c added chap 709/1947 § 1

Sub a amended chap 944/1960 § 1

Renumbered chap 100/1963 § 1384

(formerly § K41-37.0)

CASE NOTES FROM FORMER SECTION

¶ 1. In connection with the construction by the City of a reservoir in Delaware County, the Supreme Court

directed the City to construct and maintain highways incident thereto. On motion of two towns to amend order to require the City to remove snow and ice from the said highways, held dispute could not be determined upon motion but towns should seek a determination of the controversy through an action or proceeding.-Huie v. City of N.Y., 285 App. Div. 922, 137 N.Y.S. 2d 605 [1955].

¶ 2. An action by the City of New York against three counties and six towns of the State for a declaratory judgment as to the validity and constitutionality of Laws of 1960, ch. 944 was properly brought in New York County.-City of New York v. Town of Colchester, 28 Misc. 2d 426, 212 N.Y.S. 2d 667 [1961].

¶ 3. Provision of statute requiring City to repair and maintain and to remove snow and to sand the surfaces of certain highways it owned in Delaware, Ulster and Sullivan county was not unconstitutional as being enacted without first obtaining approval from the City in violation of the Home Rule provision as it concerned not only the welfare of the city but of the residents of surrounding towns and was a general law which did not require such approval. City of N.Y. v. Town of Colchester, 66 Misc. 2d 83, 320 N.Y.S. 2d 156 [1971].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-357

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-357 Report to comptroller of expenses and liabilities.

The commissioner of environmental protection shall in every calendar month file in the office of the comptroller an account of any expenses made by the commissioner, or under the commissioner's authority, and of all liabilities incurred by the commissioner during the preceding month and an abstract of each such account shall be published in the City Record.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-38.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1385

(formerly § K41-38.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-358

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-358 Removal of buildings to prevent contamination of the water supply.

The city or its representatives shall not enter upon any lands not taken in pursuance of subchapter three-A of chapter three of title five for the purpose of preserving streams or watercourses from pollution or contamination, or of moving or causing to be moved any buildings, improvements or edifices on the ground that the same may contaminate the water supply, without making a provision for just compensation to the owner of such buildings or improvements for the removal or destruction thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-39.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1386

(formerly § K41-39.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-359

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 2 WATER SUPPLY SOURCES OUTSIDE THE CITY OF NEW YORK

§ 24-359 Rights of fishing and ice cutting in lakes and reservoirs preserved; regulation.

Nothing herein contained shall authorize or empower the city to prohibit the public from using such lakes or reservoirs that may be constructed under the provisions of this subchapter, for the purpose of ice-cutting or fishing; and the city, or its representatives, shall not hereafter prohibit the public from using such lakes or reservoirs which are now under the care or supervision of the city for the purposes of ice-cutting or fishing, subject, however, to reasonable rules and regulations, and subject however, to the right of the city to prohibit such use in the event of the declaration of an emergency as provided in section 24-326 of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-40.0 added chap 929/1937 § 1

Amended chap 713/1940 § 2

Renumbered chap 100/1963 § 1387

(formerly § K41-40.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-360

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 3 WATER SUPPLY TO OTHER MUNICIPALITIES

§ 24-360 Water supply to municipalities other than New York city; connections; charges; regulations; quantity to be taken.

a. It shall be lawful for any of the municipal corporations or water districts in the counties of Ulster, Greene, Delaware, Schoharie, Sullivan, Orange, Westchester and Putnam, and for the village of Deposit in the counties of Delaware and Broome, to take and receive from any of the reservoirs, aqueducts, conduits, streams or pipes of the city a supply of water for the uses and purposes of such municipal corporations or water districts or village and to that end such municipal corporations or water districts are, and each of them is, and such village also is, authorized and empowered to lay the necessary mains, pipes, valves, hydrants, supply pipes and other necessary appurtenances for the use of such water, without the consent of any board, officer, bureau, or department of the state or any subdivision thereof.

b. The connections with such reservoirs, aqueducts, conduits, streams or pipes shall be made at the expense of such municipalities or water districts. They shall pay to the city such fair and reasonable water charges or rates as may be agreed upon between the commissioner of environmental protection and the authorities of such municipal corporations or water districts or as from time to time upon the application of either party shall be fixed by the New York state department of environmental conservation, which department is hereby given power to fix such fair and reasonable charges or rates after hearing all parties interested. The expenses of any such hearing and decision by the New York state department of environmental conservation shall be paid by the applicant. Bills for such expenses shall be certified by such department to the applicant and paid by the applicant directly to the claimant within thirty days of

the date of such certification.

c. Such charges or rates shall not, however, exceed the charges or rates now charged by the city to persons using water in that city. Such fair and reasonable charges or rates shall be determined on the basis of the actual total cost of the water to the city after deducting from the total cost all construction costs and expenses of operation, maintenance and carrying charges incurred within the corporate limits of the city in connection with the distribution and delivery of the water within such limits. Such charges or rates fixed by the New York state department of environmental conservation shall be subject to review by the supreme court.

d. Any such municipal corporation or water district desiring to take and receive water under the provisions of this section shall make application to the commissioner of environmental protection in writing, showing the place and manner in which it is proposed to make such connections. Such commissioner shall have exclusive jurisdiction in the premises, to the exclusion of any other board, officer, bureau or department of the state or any subdivision thereof. It shall be the duty of the commissioner to grant a permit or authorization for such connections, under reasonable rules and regulations, including the installation of proper meters or other devices for ascertaining the quantity of water thus taken.

e. The daily quantity of water which may be taken and received by any municipal corporation or water district under the provisions of this section shall not exceed the quantity calculated by multiplying the number of its inhabitants as shown by the last preceding census of the United States or the last state or official municipal census by the daily per capita consumption in the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-42.0 added chap 929/1937 § 1

Sub a amended chap 787/1953 § 1

Renumbered chap 100/1963 § 1389

(formerly § K41-42.0)

Subs b, c amended chap 100/1963 § 1389

Sub f added chap 672/1964 § 1

Sub f repealed chap 354/1966 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. A permit to connect to the Catskill Aqueduct is subject to reasonable rules and regulations and proviso as to quantum to be drawn is permissible. Village of North Tarrytown v. D'Angelo, 159 (46) N.Y.L.J. (3-7-68) 16, Col. 4 T.

¶ 2. Determination pursuant to article 78 proceeding annulling a determination of the City of New York withdrawing permission to an incorporated village to tap-in to the city's Catskill Aqueduct was proper since the right of the city to take water from up-State sources was on the condition that it would permit municipalities along the aqueduct route to be supplied also and because the statute is mandatory and gives the commissioner no discretion as to the issuance of a permit except to promulgate reasonable rules and regulations.-Incorporated Village of Cornwall v. Environmental Protection Administration of the City of N.Y., 45 App. Div. 2d 297, 358 N.Y.S. 2d 459 [1974].

CASE NOTES

¶ 1. Where an upstate water district or municipal corporation purchases water from the New York City water supply system, it must pay the City the fair and reasonable charges for the water. If the parties cannot agree, the New York State Department of Environmental Conservation ("DEC") fixes the rates. The court here upheld a substantial rate increase (the first in 20 years) awarded to the City. The DEC reasonably ordered the increase phased in over a two year period, with 87 percent the first year and 13 percent in the second year, where the New York City Water Board itself had previously proposed the same percentage increases over the two year period. New York City Water Board v. Zagata, 659 N.Y.S.2d 138, 240 A.D.2d 1005 (3d Dept. 1997).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-361

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 3 WATER SUPPLY TO OTHER MUNICIPALITIES

§ 24-361 Change in sanitary sewers in city of Kingston, before water taken from Esopus creek, Ulster county.

In case any water shall be taken under the provisions of this subchapter from the Esopus creek in the county of Ulster, then and in that event and before any water shall be diverted from such Esopus creek, the city of New York shall, at the expense, cost and charge of the city and under a plan to be approved of by the common council and the city engineer of the city of Kingston, build, construct, reconstruct, alter or change the sanitary sewers of such city of Kingston known as the first and eighth ward sewers, the trunk sewer of which follows the general line of the Tannery brook in such city of Kingston and which now discharges or flows into the Esopus creek, so that the same shall discharge into the Hudson river or into the Rondout creek. The city of New York shall be liable for all damages of every name and nature which may result from the building, construction, reconstruction, alteration or changing of such sewers, and shall also at the expense, cost and charge of the city of New York, but in the name of the city of Kingston, acquire by purchase or by the condemnation proceedings provided for by this subchapter, all rights in and over private lands in the city of Kingston, which it may be necessary to acquire in order to build, construct, reconstruct, alter or change such sewers. The city of New York in executing such plan, may use for such purposes the public streets of the city of Kingston or any right of way or easement that the city of Kingston now has for the purpose of constructing or maintaining sewers.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-43.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 1390

(formerly § K41-43.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-362

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 3 WATER SUPPLY TO OTHER MUNICIPALITIES

§ 24-362 Disposal of the sewage of the city of Port Jervis.

a. The city of New York, through the commissioner of environmental protection, is hereby authorized and empowered to enter into a contract or agreement, subject to the approval of the board of estimate, with the municipal authorities of the city of Port Jervis, New York, to provide for the treatment and disposition of the sewage of the city of Port Jervis in such manner as may be provided for in said agreement and the said municipal authorities of the city of Port Jervis are likewise authorized and empowered hereby to enter into the agreement aforesaid.

b. The city of New York, through the commissioner of environmental protection, subject to the approval of the board of estimate, is hereby authorized and empowered to acquire by purchase, or by condemnation pursuant to this subchapter, such real estate in the city of Port Jervis or the county of Orange as may be necessary to carry into effect any agreed plan for the treatment and disposition of the sewage of the city of Port Jervis, and to convey any such real estate so acquired to the city of Port Jervis, any special or general law to the contrary, notwithstanding.

c. Before proceeding with the construction, the plans and specifications therefor shall be submitted to the state department of health for approval and a permit obtained from the state department of health pursuant to the provisions of the public health law applicable thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-43.1 added chap 622/1946 § 1

Renumbered chap 100/1963 § 1391

(formerly § K41-43.1)

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NYC Administrative Code 24-363

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 3 WATER SUPPLY TO OTHER MUNICIPALITIES

§ 24-363 Sewage disposal in Ulster, Delaware and Sullivan counties.

a. The city of New York, through the commissioner of environmental protection, is hereby authorized and empowered, subject to the approval of the board of estimate, the state department of health, and the authorities of the town or village affected, or in the alternative the supreme court in the judicial district in which the proposed sewers and disposal works are to be located, to construct, maintain and operate systems and plants for the collection, treatment and disposal of sewage in any town or incorporated village in the Rondout creek and Delaware river watersheds in the counties of Ulster, Delaware and Sullivan.

b. The city of New York, through the commissioner of environmental protection, is hereby authorized and empowered, subject to the approval of the board of estimate, to enter into contracts or agreements, where practicable, with the municipal authorities of any towns or incorporated villages within the Rondout creek and Delaware river watersheds, in the counties of Ulster, Delaware and Sullivan, to provide, maintain and operate systems and plants for the collection, treatment and disposal of sewage in any such town or village, and the municpal authorities of any such village or the town board of any such town are likewise authorized and empowered to enter into such agreements with the city.

c. If it be deemed by the commissioner of environmental protection to be impracticable to proceed in the manner provided in subdivision b of this section, then the city may present a petition to the supreme court in the judicial district in which such sewers or disposal works are to be located, stating the proposed location of such sewers or disposal

plants, that the plans therefor have been approved by the state department of health, and such other facts as may be proper in the circumstances, together with a prayer for an order authorizing the construction of such sewers or disposal works in accordance with such plans. Notice of the time and place of presentation of such petition shall be served on the authorities of the town or village where the sewers or disposal works are to be constructed and on the state department of health and posted in such town or village in at least ten conspicuous public places at least ten days before the hearing on such petition.

Upon the presentation of such petition the court shall hear the parties to such proceedings and also such other residents of such towns or villages as desire to be heard. Such court may approve, modify or reject the whole or any part of said plan, upon good and sufficient cause therefor being shown and the order thereon shall be final.

d. The city, through the commissioner of environmental protection subject to the approval of the board of estimate, is hereby authorized and empowered to acquire by purchase or condemnation pursuant to this subchapter, such real estate in the counties of Ulster, Delaware and Sullivan as may be necessary to carry into effect any plan approved pursuant to the provisions of this section for the collection, treatment and disposal of the sewage of any village or town in said watersheds, and to convey any such real estate so acquired to the village or town in which it is located, any general, special or local law to the contrary, notwithstanding.

e. When a sewerage system shall have been constructed, the city shall lay and thereafter maintain such pipes as may be necessary from such sewerage system to the outside of the foundation walls of buildings in the area affected by the plans approved. The cost of such pipes shall be paid by the city and in all cases where such pipes are so laid the owner shall make no claim for damage for such entry on his or her property unless the city shall have failed to replace and leave the surface and all improvements in the same condition as they were before the laying of such pipes.

f. When the city shall have constructed a sewerage system and shall have laid the necessary pipes from such system to the outside of the foundation wall of any such building, the owner of such building shall cause the drainage and sewerage of such building to be connected with and discharged into such pipes.

g. All persons acting under the authority of the city shall have the right to use the ground or soil under any street, highway or road within the counties of Ulster, Delaware and Sullivan, to construct, maintain and operate such sewers and disposal works, on the condition that they shall cause the surface of such street, highway or road to be restored, and all damages done thereto repaired.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-43.2 added chap 621/1946 § 1

Renumbered chap 100/1963 § 1392

(formerly § K41-43.2)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-364

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 4 WATER SUPPLY; MISCELLANEOUS

§ 24-364 Utilization of water to generate electric current.

The commissioner of environmental protection may, subject to the approval of the board of estimate, utilize such water as the department of environmental protection now owns or as it may hereafter acquire, for the purpose of generating electric current for the use of the municipality, or may permit the utilization of such water for the generation and sale of electric current by an electric corporation which was the owner of a developed or undeveloped water power site or sites affected, acquired or damaged by the execution of a plan or project of the city for an additional water supply, and the commissioner of environmental protection, with the approval of the board of estimate, in connection with the settlement of a resultant claim for damage made by such electric corporation, may grant or lease to such electric corporation for periods not to exceed fifty years, rights in, or to use, the lands and waters of the city for the generation of electric current as herein provided, for such consideration and on such terms and conditions as are, in the opinion of the commissioner, in the best interests of the city of New York, including but not limited to a general release of such claim, provided that such grant or lease may be made at the time of settlement of the claim as above provided but the period of use under the terms of the lease or grant, not to exceed fifty years, may commence when generation of electric current thereunder shall begin, provided that no additional water shall be used for such purpose than would otherwise be required by the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-48.0 added chap 929/1937 § 1

Amended chap 804/1946 § 1

Renumbered chap 100/1963 § 1397

(formerly § K41-48.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-365

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 3 WATER SUPPLY

SUBCHAPTER 4 WATER SUPPLY; MISCELLANEOUS

§ 24-365 Cemetery and burial grounds.

Whenever for the purposes of this subchapter it shall be necessary to use any land or premises, or any portion thereof, now occupied by graves, burial places, cemeteries or other places of interment of human remains, such graves, burial places, cemeteries or other places of interment of human remains and the human remains located therein, shall be removed and disposed of in the following manner: 1. The city having acquired title to the land where burial places are situated shall cause a notice to be published once in each week for four successive weeks in two newspapers published in the county where such burial place or places are situated, which such notice shall be substantially as follows:

"Please take notice that the undersigned hereby intends to make application relating to the removal of all the remains, all the monuments and all other distinguishing marks from the cemetery or burial place located in the town of _____ county of _____ known as _____ not less than sixty days after (the last publication date of this notice) for an order pursuant to subchapter four of chapter three of title twenty-four of the administrative code of the city of New York;

Please take further notice that any and all person or persons legally entitled to direct as to the disposition of the above may remove the same to any other cemetery or burial place within the same or an adjoining county within sixty days after (the last publication date of this notice) if they so elect upon informing the commissioner of environmental protection in writing of the cemetery or burial place in which said remains are to be reinterred and to which the monuments and other distinguishing marks are to be moved.

Corporation counsel of the city of New York."

2. Not less than sixty days after the last publication date of said notice, the corporation counsel shall make an application to a special term of the supreme court in the same judicial district in which the cemetery or burial place is located for an order authorizing such removal of said remains, monuments and all other distinguishing marks to a cemetery or burial place in the same or an adjoining county from that in which said cemetery or burial place is located.

Such order shall be made upon due proof of not less than ten days' notice to interested parties who have appeared by attorney, or who have filed appearances in writing with the corporation counsel, and of proof of publication of notice of such application once in each week for four weeks in each of two newspapers published in the county where such cemetery or burial place is situated, immediately prior to application to the supreme court. Such notice shall briefly set forth the time and place of the making of such application and a designation of the cemetery or burial place to which said remains, monuments and distinguishing marks are sought to be removed.

All removals and transportation of such human remains shall be done in accordance with the provisions of the public health law and the local rules or ordinances of any town, city or village wherein such cemetery or burial place is located, or wherein any of such remains may be interred. The commissioner of environmental protection on behalf of the city may acquire by purchase such other lands as may be necessary within the county where such cemetery or burial place is located, or in an adjoining county, for the purpose of properly interring such removed remains, which lands shall be acquired with the approval of the supreme court in the same judicial district as that in which the condemnation proceedings were originally instituted. In the acquisition of such lands no cemetery or burial place shall be divided and the acreage acquired must be at least substantially equal to the acreage taken. The commissioner of environmental protection on behalf of the city may also acquire other lands within the county wherein such cemetery or burial place is located, or in an adjoining county, for the purpose of properly interring and removing such remains, in the same manner as provided by this subchapter for the acquisition of water supply and other lands but such acquisition of such lands shall be subject to approval of the supreme court. No lands shall be acquired within the corporate limits of a village or city except within the bounds of an existing cemetery unless by consent of the board of trustees of the village or common council of the city or other authorities within such village or city occupying similar positions as trustees or aldermen, respectively. The supreme court, upon application for the confirmation of the report of the commissioners, shall make inquiry as to the rights of individual lot owners in cemeteries and provide for the protection of such rights as justice shall require. All the bodies removed by said commissioner of environmental protection shall, when distinguishable, be encased each in a separate box or coffin, and each monument, head stone, foot stone, slab, board or other designating or distinguishing mark shall be properly removed and reset at the grave of each body at the time of such reinterment. Members of the same family shall be reinterred in contiguous graves. Whenever any person or persons, legally entitled to direct as to the disposition of any human remains now interred in a cemetery or burial place, shall request, in writing, within the sixty day period aforesaid, the burial of such remains in a cemetery in the same or an adjoining county, the commissioner shall cause such remains to be reinterred where requested within the same county or in adjoining county, and shall carefully and properly remove such remains to such burial plot and properly reinter the same, and in the event that any human remains be removed to, and reinterred in any other place other than that acquired as herein provided, no portion of the expense for the acquisition of any other grave, graves, or other place or places of burial shall be borne by the city, but in such event the city shall bear only the expense of removal and transportation of such remains. Whenever there is no request to remove remains within the sixty day period as hereinbefore provided, the corporation counsel shall apply for an order authorizing such removal in the manner herein provided. Whenever any person or persons legally entitled to direct as to the disposition of any human remains exhumed or to be exhumed from any cemetery or burial place as herein provided, elect to remove the same for reinterment to any burial plot or cemetery not within the same county from which such remains were exhumed, or in an adjoining county, such person or persons so entitled to designate such other burial place or plot shall be permitted to remove such exhumed remains from such county, subject to the provisions of the public health law, and the local rules or ordinances of any town, city or village wherein such cemetery or burial place shall be located, or wherein such human remains may be reinterred, but no portion of the expense of such transportation or burial shall be borne by the commissioner of environmental protection.

When any lands acquired for the purposes of reinterment of human remains as herein provided, to which shall have been removed all remains exhumed from a cemetery or burial place belonging to an individual or individuals, or to a corporation organized under the religious corporations law, the not-for-profit corporation law or by special act, or belonging to a town, village or city, the board of estimate of the city of New York shall, after reinterment, execute and deliver, without expense to the prior owner, if an individual, or if such prior owner be a corporation, to the trustees or other governing body of such corporation, by whatsoever name or title they may hold office, or to the board of trustees, if any, of a town burial ground, and to their successors in office, a quit claim deed covering the lands so acquired, together with all structures erected thereon, and where lands have been acquired for the purpose of reinterment of human remains exhumed from a public or private cemetery or burial place which shall have been used by the inhabitants of any town in this state as a cemetery or burial place for the space of fourteen years and not having a board of trustees pursuant to the provisions of the town law, the board of estimate of the city of New York shall, after reinterment, execute and deliver, and without expense to the grantee therefor a quit claim deed or other proper release to such town wherein such lands so acquired as provided by this section may be situated, and such cemetery or burial place shall from and after the execution and delivery thereof be deemed to be vested in such town, and shall be subject, in the same manner as other corporate property of towns, to the government and direction of directors in town meeting, excepting, however, that where such lands so acquired for the purposes set forth in this section are situated within the limits of a village or city, such quit claim deed or release herein provided for shall be executed and delivered to such village or city and thereafter be and become property of such village or city and subject to the laws governing such village or city. From and after the execution and delivery by the board of estimate as by this section provided, of the quit claim deed or release, the city of New York shall be divested of all right and title to said lands so quit claimed or released and shall not thereafter be liable for the care, custody, maintenance and control thereof. This section does not limit any existing right of burial or removal of remains under other provisions of law applicable thereto. Nothing herein contained shall impose any duty whatsoever upon the city of New York for the care, custody, maintenance and control of any burial grounds, cemeteries or other places of interment for human remains.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § K51-48.1 added chap 824/1939 § 1

Note-water supply board powers chap 824/1939 §§ 2, 3

Renumbered chap 100/1963 § 1398

(formerly § K41-48.1)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-401

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-401 Engineers. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 59/1996 § 87, eff. Aug. 8, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § 731-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-402

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-402 Consulting engineers. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 59/1996 § 87, eff. Aug. 8, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § 731-2.0 added chap 929/1937 § 1

Amended chap 100/1963 § 532

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-404

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-404 Permits; excavations in street; gas distribution lines; electrical conductors.

a. It shall be unlawful for any person to take up the pavement of any street, or to excavate for the purpose of laying any gas distribution lines, or any electrical conductors underground, or of constructing subways, or of erecting poles, unless permission in writing therefor shall have been first obtained from the commissioner of transportation. It shall be unlawful to string, lay or maintain any gas distribution lines, or any electrical conductors above or below the surface of any street, in any part of the city, without written permission from the commissioner of transportation. The commissioner of transportation shall determine whether any extension of the existing electrical conductors of any person shall be by means of overhead or underground conductors.

b. Violations. Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not less then two hundred fifty dollars nor more than five hundred dollars, or imprisonment for thirty days or both.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 6

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-2.0 added chap 929/1937 § 1

Amended LL 172/1939 § 10

Amended LL 44/1947 § 1

Sub a amended chap 100/1963 § 542

CASE NOTES FROM FORMER SECTION

¶ 1. Gas pressure regulators are conductors and part of the conduction system for gas permitted by a gas company's franchise to be installed in the City streets. The same ruling applies to the vaults in which the regulators are installed and the vent posts required to be used in connection with such installation. The failure of the City to issue permits for the installation of gas pressure regulators in vaults, with vent posts, was arbitrary and unlawful.-Matter of Brooklyn Union Gas Company v. Cashmore, 21 Misc. 2d 126, 194 N.Y.S. 2d 298 [1958], aff'd, 9 App. Div. 2d 905, 195 N.Y.S. 2d 604 [1959].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-405

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-405 Permit required.

a. It shall be unlawful for any gas, telephone or electric light company, or any person to lay or install any pipes, mains or conduits for the use and transmission of gas, electricity, pneumatic power or steam, or to perform any work that is under the jurisdiction, cognizance and control of the commissioner of transportation, in any street, or public place, without a written permit from the commissioner of transportation.

b. It shall be unlawful to violate any provision of this section or any notice or special direction thereunder, under a penalty of not less than two hundred fifty dollars nor more than five hundred dollars for each offense.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 7

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-3.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-406

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-406 Removal of electric wires; Manhattan and the Bronx.

a. After the grade of any street in the boroughs of Manhattan and the Bronx shall have been finally determined and established, whenever, in the opinion of the board of estimate it shall be practicable to remove the electrical conductors above ground in such street and place them underground, the commissioner of transportation shall notify the owners or operators of such conductors. Notice shall be to the effect that such electrical conductors must be removed within a certain time, sufficient for removal, which shall be fixed by such commissioner. In the case of a corporation duly authorized to lay and operate electrical conductors underground in such street, the time shall be sufficient for the proper laying of conductors underground in place of those removed.

b. All electrical conductors authorized to be placed underground, shall be so placed under and in accordance with the provisions of sections 24-410 through 24-415 of the code. Whenever application shall be made to the commissioner of transportation for permission to place underground electrical conductors in any such street, if such permission be granted, the subways therefor shall be constructed or provided, and such electrical conductors placed underground under and in accordance with the provisions of such sections. Such permission shall be granted only in accordance with the provisions of such sections.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 8

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-4.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-407

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-407 Underground electrical conductors; Manhattan and the Bronx.

Any company, operating or intending to operate electrical conductors in the boroughs of Manhattan and the Bronx, if it shall desire or be required to place its conductors or any of them underground in any of the streets of such boroughs, must remove such conductors from the surface of such streets, when duly authorized so to do. It shall be obligatory upon such company to file with the commissioner of transportation a map or maps, made to scale, showing the streets which are desired to be used for such purpose, and giving the general location, dimensions and course of the underground conduits desired to be constructed. Before any such conduits shall be constructed, it shall be necessary to obtain the approval of such commissioner of transportation of the plan of construction proposed by such company. The commissioner of transportation has and shall have power to require that the work of removal and of constructing every such system of underground conductors shall be done according to such plan so approved, subject at all times to such modifications as shall be made by him or her from time to time, and subject also to such rules and regulations as may be promulgated by him.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 9

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-5.0 added chap 929/1937 § 1

Amended chap 100/1963 § 543

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-408

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-408 Electrical conductors; Manhattan and the Bronx; duties of commissioner of transportation.

a. It shall be the duty of the commissioner of transportation to carefully investigate any and all methods proposed by any company for electric lighting or electrical communication by the use of conductors along or across any street in the boroughs of Manhattan and the Bronx, and, before approving of any such method, such commissioner of transportation shall require that, so far as practicable, all such conductors when constructed shall be underground. The commissioner of transportation shall have full authority to compel all companies operating electric wires to use the subway prepared in accordance with the provisions of sections 24-407 through 24-409 of the code.

b. Wherever, along the streets, in sparsely inhabited or unoccupied portions of such boroughs, the public interests do not require the electrical conductors to be placed underground, and wherever, in any other locality in such boroughs, it is deemed by such commissioner to be, for any cause, impracticable to construct and successfully operate underground the electrical conductors required by any such company, then, it shall be the duty of such commissioner to examine and grant the application of any such company for permission to deviate from such underground system. The commissioner of transportation shall not, however, grant any such permission unless he or she shall be satisfied, upon investigation, that such a permit should be granted for one of the reasons stated above, and that it will not interfere with the successful working of underground conductors elsewhere in such boroughs. Any such permit shall be held and construed to authorize the construction and maintenance of the lines of conductors therein provided for, as and where prescribed by the commissioner of transportation.

c. It is hereby made the duty of such commissioner of transportation, in granting any such permit for other than underground electrical connections, to bear in mind the policy and purpose of sections 24-407 through 24-409 of the code, which is to convert the overhead systems of electrical wires and cables now in use in such boroughs to

underground systems, as soon as possible, without impairing the efficiency of their service, and to require that, as far as practicable, all electrical conductors in any street in such boroughs shall be removed from the surface and placed and operated underground, as soon as may be consistent with the convenient use thereof by the public. It is intended to authorize other than underground electrical conductors, to be used in the streets, only when and where the public interests do not require the electrical conductors to be placed underground, or when and where it shall be deemed by the board of estimate to be impracticable to place and operate the conductors advantageously underground. It is also intended to make all aerial or other electrical connections merely incidental to such underground methods, and to require that they be authorized only when and where needed for the convenient use of the public or where the underground conductors can be made more useful thereby.

d. The work of constructing every line of conductors authorized by any such permit, so granted, shall be subject to the rules and regulations prescribed by the commissioner of transportation. Every such permit shall specify the location of the structures to be erected and to be used for sustaining the electrical conductors, and shall give the general dimensions thereof.

e. It shall be the duty of the commissioner of transportation to require that the subway may be used by the city for the electric wires or conductors operated by its police, fire or other agencies without expense, except that of the wires or conductors. The city shall not, however, be compelled to place any such wires or conductors underground until the money has been specifically raised therefor, and until that time the city may continue to use and extend such wires.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 10

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-6.0 added chap 929/1937 § 1

Sub d amended chap 100/1963 § 544

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-409

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-409 Aerial electrical wires or cables; regulation.

Whenever the commissioner of transportation shall permit any aerial electrical wires or cables, carried along or across and above the surface of any of the streets of such boroughs, to be crossed by aerial electrical wires or cables, it shall be the duty of the commissioner of transportation to designate also, in such permit, the route and location thereof, and to prescribe and regulate the height at which such wires or cables shall be placed. Whenever any such permit shall be granted by the commissioner of transportation, in extending the connections of any subterranean electrical conductors, for the erection of any structure or structures for sustaining electrical conductors above the surface of any street, or for placing wires or cables on any such structure or elsewhere than underground, or for carrying any such wires or cables across or along and above the surface of any street, or for placing wires or cables on any such structure or elsewhere than underground, or for carrying any such wires or cables over or into or in the rear of any building in such boroughs, any and all such structures, and any and all such wires or cables, shall be so erected and maintained as not to interfere with the other public uses of such streets.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 11

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-7.0 added chap 929/1937 § 1

Renumbered LL 50/1942 § 125

(formerly § 735(5)-7.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-410

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-410 Construction of conduits; removal of poles, wires.

Whenever, in the opinion of the commissioner of transportation, a sufficient construction of conduits or subways under ground shall be made ready under the provisions of sections 24-410 through 24-414 of the code, in any street or locality in the boroughs of Manhattan and the Bronx, reference being had to the general direction and vicinity of the electrical conductors then in use overhead, the commissioner of transportation shall notify the owners or operators of the electrical conductors above ground in such street or locality. The notice shall inform them that they are to make such electrical connections in such street or through other streets, localities or parts of such boroughs with such underground conduits or subways as shall be determined by such commissioner of transportation, and to remove poles, wires, or other electrical conductors above ground and their supporting fixtures or other devices from such street and locality within ninety days after notice to such effect shall be given.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 13

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-9.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-411

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-411 Removal of abandoned poles.

a. All telegraph, telephone and electric light poles, wires or conductors which shall hereafter remain or stand disused, or become disused or abandoned, in, or over or upon any street, shall be forthwith removed, but for sufficient cause shown the commissioner of transportation may extend the time for such removal, by one or more orders, for periods not exceeding one year each.

b. The persons owning, operating, managing or controlling poles, wires or appurtenances which may have been so disused or abandoned, or which may be dangerous or unsafe, shall take down and remove them, and upon their faiture to do so, the commissioner of design and construction, in accordance with chapter fifty-five of the charter, unless otherwise directed by the mayor pursuant to such chapter, shall remove the same forthwith, at the expense of such persons. Before such removal, the commissioner of transportation or the commissioner of design and construction, except where a condition of danger exists, shall mail a notice thereof to the last known address of such persons, a copy of which shall be posted for a period of ten days on each of such poles prior to its removal.

c. Any person convicted of a violation of any of the provisions of this section shall be punished by a fine of not less than two hundred fifty nor more than five hundred dollars, imprisonment for not more than ten days, or both.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 14

Section added chap 907/1985 § 1

Subd. b amended L.L. 77/1995 § 15, eff. Nov. 23, 1995.

DERIVATION

Formerly § 734(5)-9.1 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 71

(formerly § 82d6-3.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-412

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-412 Agreement with Consolidated Telegraph and Electrical Subway Company; new contracts.

The agreement made by and between the commissioners of electrical subways or the commissioner of water supply, gas and electricity for the city of New York and the Consolidated Telegraph and Electrical Subway Company or its successor by merger, the Consolidated Edison Company of New York, under date of July twenty-seventh, eighteen hundred eighty-six, when and as amended and modified by a second and further contract or agreement between these parties, dated the seventh day of April, eighteen hundred eighty-seven, is hereby ratified and confirmed, subject, however to all the provisions of sections 24-410 through 24-414 of the code. But if at any time or for any reason the agreement so amended shall be or become inoperative or ineffectual for the accomplishment of its just purpose and the purposes of these sections, or if the company shall be unable, or after reasonable notice and opportunity given by such commissioner, it shall fail or decline to comply with or carry into effect the agreement in all its terms, then such commissioner may, with the approval of the mayor, make such new, further or different contracts with the same or other parties as may be reasonable or necessary to carry into effect the provisions and intent of sections 24-410 through 24-414 of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-10.0 added chap 929/1937 § 1

Amended chap 100/1963 § 545

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-413

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-413 Enforcement of agreement and of provisions of sections 24-407 through 24-414 of the code.

Whenever it shall be made to appear to the satisfaction of any of the justices of the supreme court, that the commissioner of general services or his or her representatives, or any commissioner succeeding to the functions of such commissioner, or his or her representatives, or the Consolidated Telegraph and Electrical Subway Company or its successor by merger, the Consolidated Edison Company of New York, or any persons claiming under such commissioner, or under such company, shall have violated or shall have failed to observe and fully perform any of the provisions of sections 24-407 through 24-414 of the code, or of such agreement, or shall have failed to furnish just and equal facilities thereunder to any and all corporations lawfully competent to manufacture, use or supply electricity, or to operate electrical conductors in any street, applying for such facilities upon terms that to the court shall appear just and reasonable, then such justice or court may, by proper proceedings in the nature of an order of mandamus, enforce the provisions of sections 24-407 through 24-414 of the code, or of such agreement or of any agreement made under such sections or compel the granting of such facilities, or may grant such relief as may be proper. Such commissioner, or the city, or any person, company or corporation aggrieved, shall be entitled to institute and maintain such proceedings.

HISTORICAL NOTE

Section amended L.L. 59/1996 § 88, eff. Aug. 8, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-11.0 added chap 929/1937 § 1

Amended chap 100/1963 § 546

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-414

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-414 Power to purchase subways, property and contracts of such company.

The mayor, in his or her discretion, may purchase the subways constructed by such company, and the contracts and other property held or owned by it for any of the purposes of its incorporation, for and in the name of the city. The purchase price shall not exceed the actual cost of the property, with ten per cent added to such cost, as may be or may have been agreed upon between such company and the commissioner of general services. The payment therefor shall be made within four months after the delivery to the comptroller of good and sufficient and duly executed instruments of conveyance or transfer to the city, subject, however, to any valid liens outstanding thereon, not exceeding fifty per cent of the actual cost of such subways, and subject to all existing leases or contracts for the use of such subways.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-12.0 added chap 929/1937 § 1

Amended chap 100/1963 § 547

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-415

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-415 Conditions to granting permit for conduit construction; security.

a. The commissioner of transportation shall not grant a permit of the type mentioned in section 24-404 of the code unless, if the application be for underground construction, there is an existing demand for the construction of such conduits or subways, and the occupation of such conduits or subways is reasonably assured, and the public interests require their construction, or unless, if the application be for permission to deviate from an underground system, the case is one of those in which such deviation may be legally permitted under authority of sections 24-407 through 24-409 of the code. This section is made a police regulation in and for such boroughs.

b. It shall be the duty of the commissioner of transportation to require of any corporation or individual making application for the construction of subways, that before the construction of such subways shall be ordered, the applicant shall furnish to the corporation which shall be ordered to build such subways, satisfactory security for the occupation by it of the subways which shall be constructed at its request, and the payment of the established rentals therefor yearly in advance, during such period, not less than five years, as the commissioner of transportation shall determine. The commissioner of transportation may establish and from time to time may alter, add to or amend all proper and necessary rules, regulations and provisions for the manner of use and management of the electrical conductors, and of the conduits or subways therefor, constructed or contemplated under the provisions of this section or of any law mentioned herein. This section shall not be construed to authorize any corporation or individual to take up the pavements of such boroughs, to excavate in any of such streets or to erect poles in any part of such boroughs, unless a permit in writing therefor shall have been first obtained from the commissioner of transportation.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 15

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-13.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-416

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-416 Underground electrical conductors; Brooklyn, Queens and Richmond.

Whenever the board of estimate, after hearing all the parties interested, shall deem it desirable and practicable that the electrical conductors above ground in any street in the boroughs of Brooklyn, Queens and Richmond, be placed underground, the commissioner of transportation shall notify the owners or operators of such electrical conductors. The notice shall be to the effect that such electrical conductors shall be placed underground within a certain time, sufficient for the proper construction of underground conduits or other channels in such street, to be fixed by such commissioner. Whenever any duly authorized company operating or intending to operate electrical conductors in any such street, shall desire to place its conductors or any of them underground, it shall be obligatory upon such company to file with the commissioner of transportation a map or maps made to a scale, showing the streets which are desired to be used for such purpose, and giving the general location, dimensions and course of the underground conduit desired to be constructed. Before any such conduit shall be constructed it shall be necessary to obtain the approval of the commissioner of transportation of such plan of construction so proposed, and such commissioner shall have power to require that the work of removal and of constructing every such system of underground conductors shall be done according to such plan so approved.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 16

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-14.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-417

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-417 Telegraph, telephone or electric light poles on Eighth avenue between Flatbush avenue and Ninth street in Brooklyn.

Telegraph, telephone or electric light poles, except such iron poles as are now or may hereafter be erected and maintained in connection with an underground system of wires, shall not be erected upon Eighth avenue, in Brooklyn, between Flatbush avenue and Ninth street, or any part thereof, unless the consent of a majority of the owners of property in numbers and value thereof on Eighth avenue between Flatbush avenue and Ninth street first be obtained in writing, duly acknowledged in the same manner as deeds entitled to be recorded.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-15.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-418

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-418 Procedure.

The commissioner of transportation shall fix the time within which electrical conductors must be placed underground, and shall notify the owners or operators of any such electrical conductors in the city that such conductors must be removed or placed underground, in accordance with the resolution of the board of estimate. He or she shall give all persons or corporations owning or operating such electrical conductors, an opportunity to be heard on the question of the time necessary to place them underground, and shall hear such expert opinion as he or she may think advisable. Such owners or operators of electrical conductors above ground in such street or locality shall be required to remove all of such poles, wires or other electrical conductors and supporting fixtures or other devices from any such street or locality within thirty days after the expiration of the time so fixed by the commissioner of transportation.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 17

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-16.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-419

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-419 Certain sections to be police regulations.

The provisions of sections 24-404, 24-406, 24-410, 24-416 and 24-418 of the code are made police regulations in and for the city. In case the owners of such poles, wires or other electrical conductors, fixtures and devices shall fail to have them removed from such streets or localities as required by the commissioner of transportation or by the determination of the board of estimate, or shall neglect or refuse to comply with any provisions of law with respect thereto, it shall be the duty of the commissioner of transportation to cause them to be removed from such streets.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 18

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-17.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-420

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-420 Replacement of lamp-posts or electric light poles.

a. Any person who shall take up and temporarily remove any lamp-post or electric light pole, under a permit or by other lawful authority, shall cause the same to be reset at his or her own expense immediately upon the completion of the work that necessitated its removal.

b. Any person who shall violate any provision of this section shall, upon conviction thereof, be punished by a fine of not less than two hundred fifty nor more than five hundred dollars, or by imprisonment for not exceeding thirty days, or by both.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 19

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(5)-18.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-421

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-421 Electric light, power; inspection of; all wires to be inspected.

The commissioner of buildings shall cause all wires, currents and appliances that may be introduced into or placed in any building or structure in the city to be inspected, and shall furnish a certificate of such inspection to any person or corporation applying therefor.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 20

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(6)-1.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-422

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-422 Commissioner of buildings to submit proposed local laws with respect to electrical equipment and energy.

The commissioner of buildings shall from time to time submit for the consideration of the council proposed local laws in relation to electric wires, appliances and currents for furnishing light, heat or power when introduced into or placed in any building or structure in the city. Such proposed local laws shall prescribe the method of construction, operation, location, arrangement, insulation and use of such wires, appliances and currents as the commissioner of buildings shall from time to time deem necessary for the protection of life and property.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 21

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(6)-2.0 added chap 929/1937 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-423

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 4 GAS AND ELECTRIC LINES

§ 24-423 Operators of motion-picture projecting machines.

a. License required. It shall be unlawful for any person to operate any motion-picture projecting apparatus or any connection thereof in any place of public assemblage or in any public or private building, whether used for shows or amusements or otherwise, unless he or she shall have been duly licensed by the commissioner of consumer affairs as provided in this section.

b. Rules and regulations. The commissioner of consumer affairs shall make rules and regulations governing the issuance of licenses and certificates pursuant to chapter one of title twenty of this code.

c. Legal age. An applicant for license to operate motion-picture projecting apparatus must be at least 18 years of age.

d. Issue of license and certificate; fee. If the applicant proves himself or herself competent to operate motion-picture apparatus and its connections, such commissioner, upon prior payment of a fee of sixty dollars may, in his or her discretion, issue a license or cause it to be issued. Irrespective of the date of issue, such license shall expire on December thirty-first of the year of issue, unless sooner revoked or suspended. A license may be renewed annually upon the payment of a fee of thirty dollars, if so renewed within the calendar year in which issued.

e. Posting certificate. With every license granted, a certificate shall be issued to the person obtaining the license, certifying that the person named therein is duly authorized to operate motion-picture apparatus and its connections. The certificate shall be displayed in a conspicuous place in the room in which the licensee operates a motion-picture apparatus and its connections.

f. Discipline. The license and certificate may be revoked or suspended at any time by the commissioner of consumer affairs in accordance with chapter one of title twenty of this code.

g. Renewal of license. Every license, unless revoked or suspended, may be renewed by the commissioner of consumer affairs in his or her discretion, upon application at the end of the calendar year in which issued. Such renewal may be with or without further examination as he or she may direct, but every application for renewal of license must be made within the thirty days previous to the expiration of such license.

h. Unlicensed operators. It shall be unlawful to employ any person, not licensed as provided in this section, or to permit such person, to operate any motion-picture apparatus, or any connections thereof, in any motion-picture theatre, open-air motion-picture theatre or other place where motion pictures are exhibited, to which the public is admitted, with or without charge for admission.

i. Violations. The commissioner of consumer affairs shall enforce the provisions of this section pursuant to chapter one of title twenty of this code and all of the remedies and penalties provided in such chapter shall apply to the violation of any of the provisions of this section.

HISTORICAL NOTE

Section amended L.L. 69/1985 § 22

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(7)-1.0 added chap 929/1937 § 1

Subs b, e amended LL 35/1953 § 1

Renumbered chap 100/1963 § 548

(formerly § 734(6)-3.0)

Amended LL 18/1975 § 1

Sub d amended LL 45/1979 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-501

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-501 Sewage disposal to protect water supply.

a. 1. The commissioner of environmental protection is authorized and empowered to enter into a contract or agreement, subject to the approval of the mayor, with the appropriate authorities of the following localities:

(a) The town board of any town and the municipal authorities of any village within the Croton watershed in the county of Westchester,

(b) The authorities of the town of Carmel, Putnam county,

(c) The municipal authorities of the village of Brewster, Putnam county, to provide for the disposal of the sewage of any town or village within the Croton watershed, of one or more villages or sewer districts within the town of Carmel, and of the village of Brewster, in the manner provided for in such agreement. The town board of any such town or the municipal authorities of any such village are likewise authorized and empowered to enter into such agreement. They may provide in such contract or agreement that all persons within the area affected owning buildings on streets where sewers are, or may hereafter be constructed or located under such agreement, or any modification thereof, shall connect with the sewer systems as provided in such contract or agreement.

2. In the event of the failure of any such person or persons to connect with any sewer system and the failure of the town board of any such town or the municipal authorities of any such village to compel such person or persons to connect with such sewer system within sixty days after notice and demand, the city shall have the right to cause such connection to be made at the expense of the owner failing or neglecting to connect with such sewer system. The expense of making any such connection may be recovered by the city in a suit in any court having competent jurisdiction.

3. With respect to the town of Carmel, such contract or agreement may authorize or require the construction, operation and maintenance of a sewage disposal plant, equipment and facilities for the disposition of the sewage of one or more villages or sewer districts in the town of Carmel or the extension, improvement, operation and maintenance of existing plants, if any, for such purpose. The town board of the town of Carmel is hereby authorized to contract between one or more sewer districts or between one or more villages and one or more sewer districts for any trunk sewer lines or laterals thereof to convey the sewage of such village, villages, district, or districts to a disposal plant operated by any district, village or municipality. The cost and expense of such trunk sewer, pumping station or appurtenant works shall be apportioned by the town board of the town of Carmel pro rata to the volume of sewage or population, or both, of the area benefited.

b. 1. The commissioner of environmental protection is authorized and empowered, subject to the approval of the mayor, to enter into contracts or agreements with the municipal authorities of any towns or incorporated villages within the Esopus and Schoharie watersheds, in the counties of Ulster, Delaware, Schoharie and Greene, to provide, maintain and operate systems and plants for the collection and disposal of sewage in any such town or village. The municipal authorities of any such village or the town board of any such town are likewise authorized and empowered to enter into such agreements with the city.

2. When a sewerage system shall have been constructed, the city shall lay and thereafter maintain such pipes as may be necessary from such sewerage system to the outside of the foundation walls of buildings containing water-using sanitary plumbing. The cost of such pipes shall be paid by the city and in all cases where such pipes are so laid the owner shall make no claim for damage for such entry on his or her property unless the city shall have failed to replace and leave the surface and all improvements in the same condition as they were before the laying of such pipes.

3. When the city shall have constructed a sewerage system and shall have laid the necessary pipes from such system to the outside of the foundation wall of any building containing water-using sanitary plumbing, the owner of such building shall cause the drainage and sewerage of such building to be connected with and discharged into such pipes.

4. Upon the approval of the state engineer of the plans for any system of sewerage and disposal works prepared pursuant to any agreement entered into under the provisions of paragraph one of this subdivision, and upon the filing of such plans in the office of the state commissioner of health and of the town clerks in the towns in which such sewers and disposal works are located, the city is granted the right to such reasonable use of the highways, roads, streets and other public property of any county, village or town through which such sewer may pass or in which any part thereof may be located as may be necessary to construct, maintain and operate such sewer and disposal works. Where the route of such sewer follows any state highway, county highway or town road, such highway or road shall be replaced and repaired by the city to the satisfaction of the department, body or official having jurisdiction thereover.

c. Notwithstanding any provision of any general, special or local law or of any charter, the commissioner of environmental protection is hereby authorized and empowered to enter into a contract or agreement, subject to the approval of the mayor, with the governing body of the county of Westchester, to provide for the disposal of the sewage of any municipality located in the county of Westchester wherein such disposal is required to protect the water supply of the city of New York. The governing body of the county of Westchester is likewise authorized and empowered to enter into such contract or agreement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 734(2)-10.0 added chap 929/1937 § 1

Sub c added chap 86/1957 § 1

Sub a par 1 amended chap 100/1963 § 538

Sub b par 1 amended chap 100/1963 § 538

Sub c amended chap 100/1963 § 538

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-502

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-502 Transfer of certain board of estimate lands in the borough of Brooklyn.

a. All of the board of estimate lands, within the lines of former West 8th street between Surf avenue and the public beach, shown eliminated as a street and laid out as a park addition on map W-1817 adopted by the board of estimate on September twenty-second, nineteen hundred sixty-six, (Cal. No. 41), and shown as being closed and discontinued on map V-1818 adopted by the board of estimate on September twenty-second, nineteen hundred sixty-six, Cal. No. 29 and filed in the office of the register in Kings county on October twenty-seventh, nineteen hundred sixty-six as map No. 3859, are hereby discontinued as board of estimate lands and shall become park lands of the city.

b. There are reserved to the department of environmental protection sewer rights for the maintenance, repair and reconstruction of existing sanitary sewer and storm water sewers in the bed of the discontinued West 8th street, and subject to the condition that no structure of a permanent nature shall be erected over any of the existing sewers.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 532-12.1 added LL 47/1970 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-503

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-503 Drainage plan.

a. The commissioner of environmental protection shall devise and prepare a plan for the proper sewerage and drainage of the city, so far as the same has not already been done, for the purpose of thoroughly draining and carrying off water and other matter. He or she shall lay out the city into as many sewerage districts as he or she may deem necessary for such purpose, and shall determine and show, on suitable maps or plans: 1. The location, course, size and grade of each sewer and drain proposed for each of such districts;

2. The contemplated depth of such sewers and drains below the present surface and below the established grades of streets and avenues;

3. The proposed alterations and improvements in existing sewers;

4. Such other particulars as may be necessary for the purpose of exhibiting a complete plan of the proposed sewerage therein.

b. Such plan shall indicate the location and size of all sewage disposal works or plants, and the necessary appurtenances thereto, as determined by the department of environmental protection.

c. The commissioner of environmental protection shall submit such map or plan simultaneously to the department of health and mental hygiene, the director of city planning, each affected community board and the office of the appropriate borough president. The department of health and mental hygiene shall review such map or plan with respect to the creation or abatement of any health hazard. Such department shall file a statement with the commissioner

of environmental protection and the director of city planning, in relation to such map or plan, within fifteen days subsequent to such submission either approving or disapproving such map or plan.

d. The director of city planning shall review and determine the conformance of such map or plan with the city map, as adopted. Upon determination that such map or plan conforms with the city map, such director shall certify such determination to the commissioner of environmental protection. Unless the director shall file a statement with such commissioner in relation to such map or plan within thirty days subsequent to the submission of said map or plan, such map or plan shall be deemed to conform with the city map and shall constitute the certification thereof.

e. Copies of such map or plan as approved in accordance with the provisions of this section shall be filed by the commissioner of environmental protection in each county office of record, the community board for the community in which any portion of such map or plan is situated and the office of the borough president in which any portion of such map or plan is situated within the city of New York and in the offices of the department of transportation and department of health and mental hygiene of such city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. c, e amended L.L. 22/2002 § 51, eff. July 29, 2002 and deemed

in effect as of July 1, 2002.

DERIVATION

Formerly § 683a4-1.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 106

(formerly § 82d9-1.0)

Repealed and added chap 929/1963 § 1

Subs c, e amended LL 54/1977 § 58

CASE NOTES FROM FORMER SECTION

¶ 1. Where plaintiffs made connection with a sewer pursuant to permit granted by borough authorities, such permit could not thereafter be revoked simply because the sewer did not appear on the official map. Plaintiffs were not relegated to an Article 78 proceeding, the determination of which would not prevent the authorities from blocking off the sewer, as they were about to do.-Perosi v. City of New York, 141 (69) N.Y.L.J. (4-10-59) 14, Col. 5 M.

¶ 2. City was not liable for damage to properties of plaintiffs, as the result of overflowing of sewers in the area. The evidence showed that the area was subject to overflowing of waters prior to construction of sewers by the City in 1935, and thereafter. There was no proof that the City was negligent in construction of the sewers, even though the sewers were not adequate for the area. Also, the overflowing from the sewers, on the particular day in question, was due to an unprecedented 12-inch fall of rain, for which the City could not be liable, since due to excessive rainfall.-Beck v. City of New York, 23 Misc. 2d 1036, 199 N.Y.S. 2d 584 [1960].

¶ 3. City was not liable for overflowing of sewers, based on contention, that it was negligent in granting building permits in an area troubled with inadequate sewers for many years, since the City was required to issue building permits to persons lawfully entitled to same.-Beck v. City of New York, 23 Misc. 2d 1036, 199 N.Y.S. 2d 594 [1960].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-504

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-504 All sewers to be in accordance with general plan.

It shall be unlawful to construct any sewer, sewage disposal plant or drain in the city unless such sewer, sewage disposal plant or drain shall be in accordance with the general plan for the sewerage of the particular district in which such sewer or drain is proposed to be constructed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-2.0 added chap 929/1937 § 1

Amended LL 172/1939 § 3

Renumbered chap 100/1963 § 107

(formerly § 82d9-2.0)

Amended LL 41/1983 § 2

(legislative findings, waste treatment management plans, LL

41/1983 § 1)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-504.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-504.1 Medical debris in sewerage system study.

a. The department shall, within six months of the effective date of this section, complete a study of the problem of medical debris, including used syringes, that is discharged through the sewerage system and co-disposed with other sewage treatment plant debris. The study shall include but not be limited to analyzing and evaluating: 1. the composition and quantity of medical debris that enters the sewerage system;

2. the health and environmental effects of the medical debris entering the sewerage system;

3. the health and environmental effects of disposing of the medical debris in the city sanitation system, including the ability of effluent chlorination to disinfect the medical debris;

4. the feasibility and cost of separating the medical debris from other sewage treatment plant debris before disposal;

5. the feasibility and cost of alternative disposal methods; and

6. a strategy for eliminating or mitigating the deposit and disposal of this medical debris in the city sewerage and sanitation systems.

b. The commissioner shall, within six months of the effective date of this section, submit to the council a report on the findings of such study and any recommendations as to regulations or legislation necessary to implement the recommendations of the study.

HISTORICAL NOTE

Section added L.L. 60/1988 § 1.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-504.2

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-504.2 Combined sewer overflow and floatables, including medical debris, study.

a. The department shall, within eight months of the effective date of this section, complete an analysis of the combined sewer outfall system and its relationship to floatables, including medical debris, discharged through the system, which are deposited on beaches and other shorelines throughout the city. This analysis shall include, but not be limited to, identifying, evaluating and providing:

1. The location of each combined sewer regulator and outfall within the city of New York;

2. A list identifying priority combined sewer regulators, specifically indicating those which discharge within five hundred feet of designated bathing areas;

3. The general composition and quantity of floatables, including medical debris, that are discharged from the combined sewer system, to be compiled from available data;

4. Environmental impacts of floatables, including medical debris, to be compiled from available data;

5. The long-term solutions to be advanced to reduce the discharge of floatables, including medical debris, from combined sewer systems onto beaches and shorelines throughout the city, and the costs associated with these efforts;

6. A quarterly report about the status of this debris, as evidenced by the city-wide floatables study, which shall include any short-term collection and containment methods discovered, which could be implemented in order to reduce the discharge of floatables from the combined sewer system onto beaches and shorelines throughout the city, and the

proposed costs associated with these efforts.

b. The commissioner shall, within eight months of the effective date of this section, submit to the council a report on the findings of such analysis and any recommendations as to regulations or legislation necessary to implement the recommendations of the analysis.

HISTORICAL NOTE

Section added L.L. 102/1989 § 1.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-505

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-505 Raising of grade for drainage.

Whenever the commissioner of environmental protection shall determine that it is necessary to raise the grade of any street or streets for the proper sewage of the sewer district in which such street or streets, or parts of streets, are situated, he or she shall prepare a plan showing such proposed change of grade, and shall present the same to the board of estimate and notify the community board for the community district in which the land is located and the office of the appropriate borough president. The board of estimate shall refer such plan to the commissioner of transportation for report. Such board may change the grade of such street or streets, or parts of streets, so far as shall be necessary for the proper drainage thereof, in accordance with such plan, in the manner provided by section one hundred ninety-nine of the charter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-3.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 108

(formerly § 82d9-3.0)

Amended LL 54/1977 § 59

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-506

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-506 Temporary sewers.

Whenever it shall become necessary to construct a sewer or drain to prevent damage to property or to abate a nuisance and it is impracticable to proceed immediately to the construction of the same in accordance with any plan already adopted, the commissioner of environmental protection, on the approval of the mayor, may construct a temporary sewer or drain in such manner as to avoid such damage or abate such nuisance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-4.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 109

(formerly § 82d9-4.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-507

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-507 Private sewers and drains.

a. The commissioner of environmental protection may issue permits to persons to construct sewers or drains, or to connect with any sewers or drains built in any street, at their own expense. Such permission shall be granted only upon the agreement, in writing, of the persons applying therefor:

1. That they will comply with the provisions of sections 24-521, 3-508 and 3-509 and of subchapter one of chapter one of title nineteen of the code;

2. That they will indemnify the city for any damages or costs to which it may be put by reason of injuries resulting from neglect or carelessness in the performance of the work so permitted;

3. That they or their successors in interest will make no claim against the city if the work so permitted shall be taken up by the city.

b. The commissioner of environmental protection, at any time, may revoke such permit and direct such sewers or drains to be taken up or removed.

HISTORICAL NOTE

Section amended L.L. 104/1993 § 3, eff. Jan. 27, 1994.

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-5.0 added chap 929/1937 § 1

Sub c added LL 172/1939 § 4

Renumbered and amended chap 100/1963 § 110

(formerly § 82d9-5.0)

Sub a par 1 amended LL 204/1964 § 1

Sub c repealed LL 41/1983 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-508

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-508 Construction of sewers by the owners of private property.

a. The owners of private property at their cost and expense and in accordance with the provisions of section two hundred twenty-nine of the charter may construct sewers in the streets of the city by filing with the commissioner of environmental protection:

1. Plans and specifications of such sewer;

2. A duplicate copy of the contract for such construction, showing the cost thereof; and

3. A satisfactory guarantee to such commissioner of payment of the expense of supervision of such construction. Upon his or her approval of such plans, specifications and contract, the commissioner shall issue his or her permit for the construction of the proposed sewer.

b. The commissioner of environmental protection thereupon shall file copies of the documents listed in subdivision a with the department of city planning, which shall forward a copy within five days to the community board for the community district in which the property is located, and to the appropriate borough board if the plans involve land located in two or more community districts. Such commissioner shall apportion the cost of construction, according to actual benefit, between the several parcels of property abutting on each side of that part of the street through which the sewer is to be constructed.

c. Until title to such sewer vests in the city of New York, as hereinafter provided, the commissioner of environmental protection shall grant permits for connection with such sewer only to those owners or occupants of the

property abutting on that part of the street in which such sewer has been laid who shall prove payment to the party or parties who constructed and paid for such sewer of their proportionate part of the cost and expense shall be paid without the addition of any interest charge. At such time as title to any such sewer shall vest in the city, owners or occupants of the property abutting on that part of the street in which such sewer has been laid who have not requested permission to connect with such sewer, and who have not made payment to the party or parties who constructed and paid for such sewer, shall have the right to connect with such sewer without payment of any part of the cost and expense of such sewer.

d. Except for the purpose of supervision, maintenance and use by the city in connection with its public sewer system, such sewer shall be deemed the private property of the parties or party who shall have paid for its construction. When the owners of all the property abutting on that part of the street in which any such sewer has been laid shall have paid their several shares of the cost of its construction, or when a period of seven years from the time of issuance of the permit pursuant to subdivision a hereof has elasped, whichever is earlier, it shall be the property of the city. The city in no event shall be liable for any part of the cost and expense of construction of any such sewer.

e. It shall be unlawful for any person to represent to any prospective purchaser of property that a sewer constructed in any street is a city sewer unless such sewer shall have been constructed by the city in accordance with the legally adopted drainage plan of the city and/or accepted as a public sewer in accordance with the provisions of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. e amended L.L. 27/2003 § 1, eff. May 11, 2003.

DERIVATION

Formerly § 683a4-5.1 added chap 929/1937 § 1

Sub e added LL 31/1946 § 1

Renumbered and amended chap 100/1963 § 111

(formerly § 82d9-6.0)

Amended chap 101/1963 § 1

Amended LL 121/1967 § 1

Sub b amended LL 54/1977 § 60

Sub e amended LL 41/1983 § 4

CASE NOTES FROM FORMER SECTION

¶ 1. Where the procedure before the Board of Assessors relative to apportionment of costs of construction of petitioner's private sewer was entirely regular and a notice to present objections had been published in the "City Record" as required by the Administrative Code, petitioner was not entitled to have the assessment reopened to consider its objection, on ground it did not know that the Board would hold a meeting and therefore could not timely present its objections. Furthermore, considerations that the construction cost exceeded by $250 the assessment allowed by the Board, and that there was a possibility of not recovering the full amount paid for the sewer because certain property abutting the proposed private sewer utilized an existing sewer, did not constitute "fraud or substantial error" within

meaning of Administrative Code §§ 311-2.0 and 311-6.0, which authorized relief in such cases.-NuArt Homes, Inc. v. City of N.Y., 106 (32) N.Y.L.J. (8-7-41) 294, Col. 6 T.

¶ 2. While the assessment levied by the Board of Assessors with respect to construction of a private sewer does not really affect any property, but merely constitutes a proposed charge to be paid by an owner desiring to connect to the private sewer constructed pursuant to Administrative Code §§ 82d9-5.0 and 82d9-6.0, the precedents controlling the interpretation of Administrative Code § 311-2.0 were applicable.-Id.

¶ 3. Administrative Code § 82d9-6.0, providing for apportionment of cost of construction of sewer in City street by owner of private property, according to actual benefit, between the several parcels of property abutting on each side of the part of the street through which the sewer was to be constructed, did not authorize apportionment of cost of construction of petitioner's sewer against respondent's property, the southern boundary of which was 70 feet north of petitioner's northern boundary, notwithstanding respondent's sewer emptied into petitioner's sewer, through which it flowed to the City constructed sewer system.-165 Corp. v. Kriger, 127 (90) N.Y.L.J. (5-8-52) 1850, Col. 5 F.

¶ 4. Section of sewer constructed by petitioner was its private property within limitations set forth in Administrative Code § 82d9-6.0, subd. d. One of the limitations is "use by the city in connection with its public sewer system," and hence Borough President would not be directed to revoke permit granted respondent, whose property was located north of petitioners' and which had connected its private sewer with the public sewer system by connecting into petitioner's sewer.-165 Corp. v. Wagner, 127 (90) N.Y.L.J. (5-8-52) 1850, Col. 6 F.

¶ 5. Denial of permission to petitioner for house connections to a sewer main on the ground that the sanitary sewer was "presently inadequate" constituted a deprivation of property without due process of law when the notice of denial gave no indication of when, if ever, the sewerage system would be improved.-Kaweco Const. Corp. v. Department Administration, 171 (61) N.Y.L.J. (3-29-74) 17, Col. 2 M.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-509

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-509 Construction of sewers.

a. The commissioner of environmental protection shall prescribe the manner of opening sewers or drains and the form, size and material of which the connections therewith shall be composed.

b. It shall be unlawful to make a connection with any sewer or drain without the written permit of the commissioner of environmental protection, except that, in conjunction with the issuance of a permit for the construction or alteration of a structure within the curbline, the commissioner of buildings may issue a permit for connection with a sewer or drain. Such connection shall be in the manner prescribed by the commissioner of environmental protection. The commissioner issuing the permit shall require an applicant for such permit to demonstrate to his or her satisfaction that the proposed discharges to the sewer will be in compliance with section 24-523 of this chapter and the regulations promulgated pursuant to such section. For such purpose the commissioner issuing the permit may require the submission of plans, specifications and such other information as he or she may reasonably require.

c. When public sewers are made available, the individual on site private sewage disposal system or any other means of sewage disposal or discharge shall be abandoned in a manner prescribed by the commissioner of buildings. The building house sewer shall be connected to the available public sewer within six months of the date of notification that the sewer has been accepted to receive flow. As used in this subdivision the term "individual on site private sewage disposal system" shall mean a system of interconnected structures, units, pipes and devices, including a septic tank and an absorption area, which does not connect to the city sewer system, and which is used to collect, convey, treat and dispose water-flushed or water-carried domestic or commercial sewage on one tax lot.

d. Any person who violates subdivision c of this section, or any order issued by or rule promulgated by the

commissioner pursuant thereto, shall be liable for a civil penalty in an amount not greater than five thousand dollars for each violation, which may be recovered in a proceeding before the environmental control board. A proceeding to recover any civil penalty authorized pursuant to this section shall be commenced by the service of a notice of violation returnable before the environmental control board, which shall have the power to impose the civil penalties prescribed herein.

HISTORICAL NOTE

Section amended L.L. 65/1996 § 3, eff. Oct. 10, 1996

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-6.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 112

(formerly § 82d9-7.0)

Sub b amended LL 41/1983 § 5

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-510

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-510 Fees for connections.

The fee paid to the commissioner of environmental protection for each permit for the initial connection made with any sewer or drain, either directly or indirectly, and for each plugging or unplugging, of a building house sewer or drain, shall be ninety dollars.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-7.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 113

(formerly § 82d9-8.0)

Amended LL 43/1979 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-512

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-512 Charge for sewer connection extending from curb line to sewer or sewer riser.

a. As used in this section:

1. The term "agency having jurisdiction" shall mean the department of environmental protection.

2. The term "curb-to-sewer connection" shall mean the connection from the curb line to the sewer or to a sewer riser constructed with the sewer.

3. The term "cost" shall mean the actual cost of constructing each sewer-to-curb connection.

4. The term "curb line" shall mean the curb line determined pursuant to the resolution of the board of estimate establishing street and roadway widths.

b. The owner of any parcel of real property to be connected with the sewer system shall pay the cost of each curb-to-sewer connection serving such real property, if such curb-to-sewer connection was or shall be constructed in connection with the construction, reconstruction or replacement of a sewer duly authorized on or after January first, nineteen hundred sixty-two. Such cost shall become due and payable and shall constitute a lien against such property when the amount thereof shall have been computed by the agency having jurisdiction and an entry thereof shall have been made against such premises in the office of the city collector in the book in which charges for curb-to-sewer connections are to be entered. A notice thereof, stating the amount due and the nature of the charge shall be mailed by the city collector, within five days after such entry, to the last known address of the person whose name appears upon the records in the office of the city collector as being the person designated by the owner to receive tax bills or where

no name appears, to the premises addressed to either the owner or the agent, together with a statement that if such charge is not paid within ninety days from the date of entry the amount thereof with interest thereon at the rate of seven percent per annum, to be calculated to the date of payment from the date of entry, will constitute, until paid, a lien against the premises which shall be prior and superior to every other lien or claim except the lien of an existing tax, water rent, sewer rent, sewer surcharge or local assessment. If such charge is not paid within ninety days from the date of entry, it shall be the duty of the city collector to collect and receive interest thereon at the rate of seven percent per annum, to be calculated to the date of payment from the date of entry. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises served by such curb-to-sewer connection. Such charge and interest shall be calculated and the lien thereof may be foreclosed in the manner provided by law for the collection and foreclosure of the lien of taxes, sewer rents, sewer surcharges and water rents due and payable to the city, and the provisions of the code applicable to the collection and foreclosure of the lien of such taxes, sewer rents, sewer surcharges and water rents shall apply to such charge and the interest thereon and the lien thereof. Such lien shall be prior and superior to every other lien or claim except the lien of an existing tax, water rent, sewer rent, sewer surcharge, or local assessment. The provisions of section 11-307 of the code applicable to the payment of assessments shall also apply to the charge established pursuant to this section.

c. Nothing contained in this section shall affect, impair or diminish the duty, obligation and responsibility of the owner of real property connected with the sewer system at his or her own cost and expense: (1) to maintain any curb-to-sewer connection serving such real property; and (2) to repair, reconstruct or replace such curb-to-sewer connection except when the necessity for such repair, reconstruction or replacement is caused by the reconstruction or replacement of the sewer or by any other construction work performed by the city.

d. The cost of constructing a curb-to-sewer connection in connection with the construction, reconstruction, or replacement of a sewer duly authorized on or after July first, nineteen hundred sixty-two, shall be paid initially out of the real property fund upon the authorization of the board of estimate. All sums received or collected in reimbursement of such cost pursuant to this section, including interest and penalties thereon, shall be paid into the real property fund. This subdivision shall not apply to or affect the manner of financing the cost of repairing, reconstructing or replacing a curb-to-sewer connection when such repair, reconstruction or replacement is necessary because of the reconstruction or replacement of the sewer or because of any other construction work performed by the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-7.2 added LL 72/1962 § 1

Renumbered LL 204/1964 § 2

(formerly § 82d9-9.2)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-513

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-513 Constructors; license and bond.

a. All openings into any sewers or drains, for the purpose of making connection therewith, from any house, cellar, vault, yard or other premises, shall be made by persons to be licensed by the commissioner of environmental protection to perform such work. Before being so licensed, such persons shall execute a bond to the city in the sum of one thousand dollars, with one or more sureties to be approved by such commissioner, conditioned:

1. That they will make all openings into any sewer or drain carefully and in the manner prescribed by such commissioner without injuring the same;

2. That they will leave no obstruction of any description whatever in the connection made by them;

3. That they will properly close up the sewer or drain around such connection and make no opening into the arch of any sewer or drain;

4. That they will faithfully comply with the provisions of section eighty-six of the charter, subchapter one of chapter one of title nineteen and sections 3-508 and 3-509 of the code;

5. That they will be responsible for any damages or injuries that may accrue to persons, animals or property, by reason of any opening in any street made by them or those in their employ;

6. That they will properly refill and ram the earth, suitably restore the pavement taken up for excavating, and repave the same should it settle or become out of order within six months thereafter. In case any person so licensed shall

neglect to repair the pavement aforesaid, within twenty-four hours after being notified, the commissioner of transportation may cause the same to be done and charge the expense thereof to such licensee.

b. Repealed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a par 4 amended L.L. 104/1993 § 4, eff. Jan. 27,1994.

Subd. b repealed L.L. 27/2003 § 2, eff. May 11, 2003.

DERIVATION

Formerly § 683a4-8.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 115

(formerly § 82d9-9.0)

Sub a par 4 amended LL 54/1977 § 61

CASE NOTES FROM FORMER SECTION

¶ 1. Where a plumbing contractor obtained a permit to excavate a street for the purpose of installing sewer facilities and an excavating company was employed to do the actual excavating, both were liable and in pari delicto for injuries suffered by a fireman when he was thrown from the back of a fire truck as it passed over a six inch depression in the street caused by the negligent refill of the excavation.-Bressingham v. City of New York, 309 N.Y. 895, 131 N.E. 2d 296 [1955], aff'g, 286 App. Div. 811, 138 N.Y.S. 2d 57 [1955].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-514

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-514 Sewer rents.

a. Sewer system, defined. As used in this section the term "sewer system" shall mean and include the sewers, manholes, intercepting sewers, sewage pumping, treatment and disposal works, and any other plants, works or equipment and accessories within the city, which are used or useful in connection with the collection, treatment or disposal of sewage and waste, and which are owned, operated or maintained by the city as part of the public sewer system.

b. Imposition and computation of sewer rent or charge. 1. In addition to any other fees or charges provided by law, the owner of any parcel of real property connected with the sewer system, including but not limited to real property connected with the sewer system by means of a private sewer or drain emptying into the sewer system, shall pay a sewer rent or charge for the use of the sewer system. Such rent or charge shall be based on the water supplied to any such real property as measured by the amount charged for such water, except as otherwise provided by this section. Such rent or charge shall be computed by the commissioner of environmental protection in accordance with the provisions of this section.

2. For any such property supplied with water from the municipal water supply system the sewer rent or charge shall be equal in amount to sixty percent of the charges for water supplied to such property from such system.

3. For any such property supplied with water by a private water company, the commissioner of environmental protection shall, by rule and regulation, subject to the approval of the board of estimate, fix the fraction of the charges for such water, which shall constitute the sewer rent for such property, so that the sewer rent or charge for such property shall, as nearly as possible, be equivalent to the sewer rent or charge imposed under paragraph two of this subdivision

for property supplied with water from the municipal water supply system.

4. If any such property is supplied with river water or water from private wells, the sewer rent or charge for such property shall be equal in amount to sixty percent of the amount that would be charged for the quantity of water supplied from such sources if such water were supplied by the city at the rates charged for water supplied to metered premises. The commissioner of environmental protection shall estimate the quantity of water supplied from such sources and shall compute the sewer rent or charge, on the basis of such estimated quantity, in accordance with the provisions of this paragraph. However, if a water meter, approved by the commissioner of environmental protection, has been or shall be installed by the owner or occupant of the premises to measure the quantity of water supplied from such sources, the quantity of water measured by such meter shall constitute the basis for computing the sewer rent or charge in accordance with the provisions of this paragraph. In the event that such property supplied with river water or water from private wells is also supplied with water from the municipal water supply system or by a private water company, the sewer rent or charge for such property shall consist of the rent or charge computed pursuant to this paragraph and the rent or charges computed in accordance with paragraph two or three of this subdivision as the case may be.

5. The commissioner of environmental protection shall have the power to promulgate rules and regulations, subject to the approval of the board of estimate, prescribing reasonable sewer rents or charges for any such property which is used for an industrial or commercial purpose of such a nature that water supplied to it cannot be entirely discharged into the sewer system. The sewer rent or charges prescribed pursuant to this paragraph shall be based, as far as practicable, upon the amount of sewage discharged into the sewer system as estimated by the commissioner of environmental protection, or where an estimate of such amount is impracticable, upon any other basis bearing a reasonable relationship to the amount of sewage discharged into the sewer system.

c. Additional rule making powers. The commissioner of environmental protection shall have the power to make such additional rules and regulations as may be necessary to carry out the provisions of this section. Such rules and regulations shall be subject to approval by the board of estimate.

d. Cooperation by private persons, water companies, and public agencies. The commissioner of environmental protection may require every person who owns or occupies real property within the city, every private water company supplying water to property within the city, and all municipal agencies, officers, and employees to furnish him or her with such information as may be necessary to carry out the provisions of this section. Every such person, water company, or municipal agency, officer, or employee shall cooperate with the commissioner of environmental protection in carrying out the provisions of this section and shall comply with all rules and regulations promulgated pursuant to this section. Such commissioner shall have the power to hold such hearings and to subpoena such witnesses and direct the production of such books and papers as may be necessary to carry out the provisions of this section.

e. Exemptions from sewer rents or charges. Any real property which is entitled to an exemption from the payment of water rents or charges shall also be exempt from payment of the sewer rents or charges imposed hereunder.

f. Payment and enforcement of sewer rents or charges. All sewer rents or charges imposed hereunder shall be due and payable at the times and in the manner provided in chapters three and four of title eleven of the code. Such rents or charges shall constitute a lien upon the real property served by the sewer system and such lien shall be prior and superior to every other lien or claim except the lien of an existing tax, water rent or local assessment. Such rents or charges shall be collected and the liens thereof may be foreclosed in the manner provided in chapters three and four of title eleven of this code.

g. Sewer fund. The revenues derived from the sewer rentals imposed hereunder, including penalties and interest thereon, shall be kept in a separate and distinct fund to be known as the sewer fund. Such fund shall be used for the payment of the cost of the management, maintenance, operation and repair of the sewer system, the cost of administering and enforcing the provisions of this section and the cost of collection of the sewer rents or charges imposed pursuant to the provisions of this section, and any surplus in such fund shall be used for the payment of the

interest and amortization on any debt which has been or shall be incurred for the construction of intercepting sewers and sewage treatment and disposal works, and for the enlargement, replacement, or addition of intercepting sewers or sewage treatment works. However, such funds shall not be used for the extension of sewers to serve unsewered areas.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-9.0 added LL 67/1950 § 1

Special provision LL 102/1950 § 3

Renumbered chap 100/1963 § 116

(formerly § 82d9-9.1)

Sub e amended chap 100/1963 § 116

Sub b pars 2, 4 amended LL 28/1970 § 1

Sub h repealed chap 598/1974 § 2

Sub b pars 2, 4 amended LL 32/1980 § 1

Sub b pars 2, 4 amended LL 34/1982 § 1

Sub b amended LL 30/1984 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. General City Law § 20, subd. 26, providing for a "sewer rent" method of financing the construction of sewerage treatment plants and empowering cities to charge "sewer rents" for the use of sewers and making such rents a lien on the real property served by the sewers, and Administrative Code § 82d9-9.1, **held** constitutional.-Tursellino v. Paduano, 202 Misc. 74, 107 N.Y.S. 2d 839 [1951].

¶ 2. In the absence of any provision in the lease relative to the payment of sewer rents, which were first imposed by the City of New York in June of 1950, about a year and a half after the lease was executed, the liability to pay such rents **held** to fall upon the landlord, and not the tenant.-Black v. General Wiper Supply Co., 305 N.Y. 386 [1953], affirming, 280 App. Div. 807, 113 N.Y.S. 2d 493 [1952].

¶ 3. Under lease providing that tenant would pay as additional rent all taxes and charges for water and assessments, extraordinary as well as ordinary, as should during the term demised be levied, assessed or imposed upon the premises by virtue of any present or future law, tenant **held** liable for sewer rents notwithstanding the passage after execution of the lease of Administrative Code § 82d9-9.1, requiring the owner of realty connected with the sewer system to pay all sewer rent or charge for the use of the sewer system. The nature of the sewer rents under the new law was the same as when the parties entered into the lease, with the exception of the method of financing.-Rubber Corp. of Am. v. Chalfin, 129 N.Y.S. 2d 409 [1954], modified, 284 App. Div. 991, 135 N.Y.S. 2d 483 [1954].

¶ 4. Under a factory lease, the lessee was obliged to pay "all of the charges of water in accordance with the bill produced by the Department of Water Supply or other municipal authority". The lease was executed before the enactment of this section and made no mention of any sewer charges which had previously fallen on property owners.

Held, the tenant was not obligated to pay the sewer rents imposed by this section.-Valenti v. Tepper Fields Corp., 282 App. Div. 212, 122 N.Y.S. 2d 599 [1953].

¶ 5. Apartment building owned by the Society of the New York Hospital, and used as living accommodations by the hospital's interns, resident doctors and their families was exempt from payment of water and sewer rents pursuant to Laws of 1957, ch. 433 and this section. The test of the exemption is whether apartments in the building occupied by hospital personnel and their immediate families are devoted to a use which is reasonably incident to the major purpose of the hospital.-Soc. of the N.Y. Hospital v. D'Angelo, 149 (92) N.Y.L.J. (5-13-63) 15, Col. 5 F.

¶ 6. A community center was exempted from the payment of water and sewer rents (see L. 1957, ch. 433) even though it had no resident workers, was not in a blighted area and served many persons who were not impoverished.-Matter of Associated YM-YMHA'S of Greater New York, Inc., 38 Misc. 2d 1082, 239 N.Y.S. 2d 722 [1963].

¶ 7. Water and sewer rates not being real estate taxes but charges for benefits and there being a "reasonable standard" for fixing such charges consisting of such rate-making procedure as is not prescribed by the limitations contained in Article IX it is not an unconstitutional delegation of power to allow the city to fix these charges.-Battista v. Bd. of Estimate of City of N.Y., 51 Misc. 2d 962, 274 N.Y.S. 2d 729 [1966].

CASE NOTES

¶ 1. Sewer rents can be charged only based on actual use. Thus where, unknown to the owner, the property was not connected to the sewer system, the owner did not have to pay sewer rents. Chelsea Piers Mgmt., Inc. v. Chapin, 777 N.Y.S.2d 97, 7 A.D.3d 389 (1st Dept. 2004).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-515

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-515 Overflow sewers; where discharged.

a. All overflow sewers deemed necessary for the relief of any main sewers may be discharged into the Gowanus canal or any other canal or inlet within, or water adjacent to, the city.

b. The city shall keep all canals free of any obstruction that may be occasioned by the discharge of such overflow sewers into them. For that purpose, the commissioner of environmental protection shall dredge the same from time to time.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-10.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 117

(formerly § 82d9-10.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-516

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-516 Newtown creek sewers.

All sewers emptying directly or indirectly into Newtown creek shall be closed and may be used only as tributaries to other sewers not emptying directly or indirectly into such creek; except that whenever, by reason of heavy rainfall or snow, the sewage and drainage emptying into the sewer in Johnson avenue, borough of Brooklyn, shall be more than such sewer or its extension will carry to the East river, the excess may be discharged into Newtown creek.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-11.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 118

(formerly § 82d9-11.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-517

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-517 Injury to sewers.

It shall be unlawful for any person to injure, break or remove any portion of a receiving basin, covering, flag, manhole, vent, sewer, sewage disposal plant or drain, to obstruct the mouth of a sewer or drain, or to place or deposit any substance exceeding one ton in weight upon any wharf or bulkhead through which a sewer or drain has been laid or upon or over any sewer or drain where the same shall be within three feet of the surface of the street.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-12.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 119

(formerly § 82d9-12.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-518

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-518 Obstructing substances.

It shall be unlawful for any person to permit any substance to flow or pass into any sewer, drain or receiving basin, connecting with a public sewer, if such substance may form a deposit tending to choke such sewer, drain or basin.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-13.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 120

(formerly § 82d9-13.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-518.1

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-518.1 Food waste disposals.

a. The following terms, as used in this section, shall have the following meanings:

1. A "dwelling" is any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

2. A "private dwelling" is any building or structure designed and occupied for residential purposes by not more than two families. Private dwellings shall also be deemed to include a series of one-family or two-family dwelling units each of which faces or is accessible to a legal street or public thoroughfare, if each such dwelling unit is equipped as a separate dwelling unit with all essential services, and if each such unit is arranged so that it may be approved as a legal one-family or two-family dwelling.

3. A "multiple dwelling" is a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied, as the residence or home of three or more families living independently of each other. A multiple dwelling shall also include residential quarters for members of personnel of any hospital staff which are not located in any building used primarily for hospital use, but any building which was erected, altered or converted prior to July first, nineteen hundred fifty-five, to be occupied by such members or personnel or is so occupied on such date shall not be subject to the requirements of the housing maintenance code only so long as it continues to be so occupied if there are local laws applicable to such building and such building is in compliance with such local laws. A multiple dwelling does not include (i) a hospital, convent, monastery, asylum or public institution; or (ii) a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families.

4. The term "putrescible solid waste" shall mean solid waste containing organic matter having the tendency to decompose with the formation of malodorous by-products.

b. Food waste disposals for the discharge of putrescible food wastes from dwelling units may be installed in private dwellings and multiple dwellings, provided that:

1. all putrescible food wastes discharged to a sanitary sewer or to a combined storm and sanitary sewer are discharged in fluid form and at a reasonably uniform rate so as to prevent clogging or stoppage of the drain line, sanitary sewer or combined storm and sanitary sewer;

2. the installation of such food waste disposals is approved by the department of buildings and is in compliance with applicable provisions of the administrative code.

c. 1. The department shall conduct a pilot study of the use of food waste disposals in private dwellings and multiple dwellings served by combined storm and sanitary sewer systems. The study shall include, but need not be limited to, an analysis of the following:

i. the impact of grease and food solids on combined sewers;

ii. the impact on water consumption;

iii. the impact on the nutrient content of raw and treated effluent; iv. the impact of increased pollutant loadings to receiving waters, including increases in biological oxygen demand and suspended solids;

v. the impacts on wastewater treatment processes;

vi. the impact on sludge treatment processes and management;

vii. the impact on the city's ability to comply with applicable statutes, rules, regulations, permits and orders;

viii. the impact on solid waste management as determined by the department of sanitation; and

ix. any other impacts on the environment, public health and safety, and the cost of operating the water and sewer system.

2. The department may select an appropriate number of private dwellings or multiple dwellings within the city served by combined storm and sanitary sewer systems to participate in the pilot study. The number of food waste disposals that will be installed as part of the pilot study shall be no fewer than one hundred and shall not exceed one thousand. The study shall be deemed to have commenced when food waste disposals are installed in at least fifty percent of the dwelling units in the dwellings selected for the study and the commissioner has authorized the operation of these disposals; provided, however, that the department may deem the study to have commenced upon the installation of food waste disposals in less than fifty percent of the dwelling units within the dwellings selected for the study if the department finds that a valid study may be conducted with such lesser percentage of installations. In combined storm and sanitary sewer areas, food waste disposals may be installed only in those dwellings selected by the department to participate in the study.

3. The department shall within fifteen months of the commencement of the pilot study, but not later than twenty-one months from the effective date of this local law submit a report to the mayor and the council which shall include a detailed analysis of the findings of such study and conclusions and recommendations based on such analysis with respect to the installation of food waste disposals in private dwellings and multiple dwellings served by combined storm and sanitary sewer systems.

HISTORICAL NOTE

Section added L.L. 74/1995 § 3, eff. Sept. 21, 1995. (See Note 1)

Subd. b amended L.L. 71/1997 § 2, eff. Oct. 11, 1997. (See Note 2)

NOTES

1. Provisions of L.L. 74/1995 § 1:

Section 1. Declaration of legislative intent and findings. The council finds that lifting the ban on the installation of food waste disposals in residential dwellings served by combined storm and sanitary sewers could afford all city residents the potential convenience of using this household appliance. Moreover, the council finds that the installation of food waste disposals in residential dwellings could assist the city in its effort to manage solid waste by diverting putrescible solid waste from disposal in landfills.

However, the council finds that there are potential adverse impacts associated with lifting the ban on the installation of food waste disposals in residential dwellings served by combined storm and sanitary sewers. These adverse impacts could include a decrease in the quality of the city's receiving waters, obstruction of the city's sewer system, increased water consumption, impact on the city's ability to comply with applicable statutes, rules, regulations, permits, and orders, and increased operating costs for conveying and treating wastewater.

Accordingly, the council hereby authorizes the department of environmental protection to conduct a pilot program to determine the relative costs, benefits and problems associated with the installation of food waste disposals in residential dwellings served by combined storm and sanitary sewers. If at the conclusion of the pilot program it is determined that food waste disposals should be allowed on a more widespread basis in residential dwellings served by combined storm and sanitary sewers, the council may act to permit further installation by local law.

2. Provisions of L.L. 71/1997 § 1:

Section 1. Legislative findings. In 1995, local law number 74 was enacted, which provided for the limited installation of food waste disposals in dwellings served by combined sewer systems as part of a pilot study, the results of which were to be submitted to the mayor and the council no later than 21 months after the effective date of local law number 74. The findings were compiled in a June 1997 report prepared by the department of environmental protection entitled, "The Impact of Food Waste Disposers in Combined Sewer Areas of New York City." In short, the study found that the prohibition on the installation of food waste disposals in combined sewer areas should be lifted.

The study assessed the long-term impact of food waste disposals based on a maximum installation rate of one percent each year. The department of environmental protection has assured the council that it will supplement its ongoing monitoring of other factors that affect the City's treatment and disposal of wastewater by monitoring the introduction of food waste disposals to identify any problems that may materialize. In the unlikely event that problems do begin to surface, the department of environmental protection has further assured the council that it will immediately inform the council and recommend corrective action. With these assurances by the department of environmental protection, and in consideration of its own authority to oversee the implementation and effect of the installation of food waste disposals, the council finds, after review and analysis of the report, that at this time the prohibition of food waste disposals in combined sewer areas is no longer warranted.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-519

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-519 Volatile, flammable liquids.

It shall be unlawful to use any connection with, opening into, or gutter leading into, any sewer or drain, either public or private, for the conveyance or discharge, directly or indirectly, into such sewer or drain, of any volatile flammable liquid, gas or vapor; (A volatile, flammable liquid is any liquid that will emit a flammable vapor at a temperature below one hundred sixty degrees, Fahrenheit).

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-14.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 121

(formerly § 82d9-14.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-520

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-520 Steam and hot water.

a. It shall be unlawful to discharge waste water into any sewer at a temperature higher than that prescribed by the commissioner of environmental protection.

b. It shall be unlawful to use a connection with or opening into any sewer or drain for the conveyance or discharge of steam or hot water at a temperature above that prescribed by such commissioner into such sewer or drain, or to discharge steam, or permit it to escape into any sewer, drain, or public street, from any stopcock, valve or other opening in any steam pipe or main.

c. The commissioner of environmental protection, upon the expiration of five days after notice, shall discontinue the discharge of steam or hot water from any connection, cancel the permit for such connection and close up and remove the same, if the discharge of steam or hot water therefrom shall not have been discontinued.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-15.0 added chap 929/1937 § 1

Renumbered and amended chap 100/1963 § 122

(formerly § 82d9-15.0)

Sub b amended LL 41/1983 § 6

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-521

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-521 Excavations for public works.

a. Notice to public service corporations. Whenever any sewer, culvert, water main or pipe is to be constructed, altered or repaired in any street in which the pipes, mains or conduits of public service corporations are laid, the contractor therefor shall give notice thereof in writing to such corporations, at least forty-eight hours before breaking ground therefor. Such provision shall be included in every contract for constructing, altering or repairing any sewer or culvert, water main or pipe, in any street in which the pipes, mains or conduits of public service corporations shall be laid at the time of making such contract.

b. Public service corporations shall protect their property. Public service corporations whose pipes, mains or conduits are about to be disturbed by the constructing, altering or repairing of any sewer, culvert, water main or pipe, shall, on the receipt of the notice provided for in the preceding subdivision, remove or otherwise protect and replace their pipes, mains and conduits, and all fixtures and appliances connected therewith or attached thereto, where necessary, under the direction of the commissioner of design and construction in accordance with chapter fifty-five of the charter, unless otherwise directed by the mayor pursuant to such chapter.

c. The enforcement of subdivisions a and b hereof shall be pursuant to sections 19-149, 19-150 and 19-151 of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended L.L. 104/1993 § 5, eff. Jan. 27, 1994.

Subd. b amended L.L. 77/1995 § 16, eff. Nov. 23, 1995.

Subd. c amended L.L. 104/1993 § 5, eff. Jan. 27, 1994.

DERIVATION

Formerly § 683a4-17.0 added chap 100/1963 § 510

CASE NOTES FROM FORMER SECTION

¶ 1. Defendant would be required to pay plaintiff the reasonable cost of removing, relocating and protecting its pipelines which interfered with the construction of sewers which plaintiff was under contract with the city to install if at the trial it was proved that defendant failed to do so and that plaintiff necessarily had to relocate and protect defendant's facilities.-Paterno & Sons, Inc. v. Jamaica Water Supply Co., 52 A.D. 2d 595, 382 N.Y.S. 2d 114 [1976].

CASE NOTES

¶ 1. A public improvements contract which implements the City of New York's new joint bidding procedures on projects involving a combination of public work and utility interference work, so a contractor is required to competitively bid both on the utility work and the city work in the same contract does not represent an improper shift from the utilities to the contractor the responsibility for maintaining utility facilities. While a utility is obligated to relocate its facilities when they interfere with a public work, §24-521, there is no prohibition against including the cost of utility interference work in a public works contract. HHM Assocs. v. Appleton, 157 Misc. 2d 759 [1993].

¶ 2. In one case, plaintiff alleged that certain overhead electric, cable and telecommunications wires owned and operated by the defendants were interfering with his public works contract with the City for the milling and grinding of certain public streets. The court held that where defendant had an affirmative legal obligation under the statute to remove or alter their wires for public works construction, the defendant's decision not to do so, which decision allegedly was motivated by disinterested malevolence, gave rise to an action for prima facie tort. DeMicco Bros., Inc. v. Consolidated Edison Co. of New York, 8 A.D.3d 99, 779 N.Y.S.2d 10 (1st Dept. 2004).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-522

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-522 Maintenance of private sewers or drains located in public property or in private or public streets and emptying into the public sewer system.

a. As used in this section:

1. The term "private sewer or drain" shall mean any private sewer or drain located in public property or in any public or private street or streets and emptying into the public sewer system, but shall not include a curb-to-sewer connection as defined in section 24-512 of the code or a house sewer connection.

2. The term "private street" shall mean a privately owned street in which the public has a right of user not subject to revocation by the owner thereof.

b. Notwithstanding any other provision of law, it shall be the duty of the department of environmental protection to control, maintain, supervise and repair, and to inspect periodically, private sewers or drains as defined in subdivision a hereof, provided, however, that the department shall have no obligation or duty to replace or reconstruct any such sewer or drain. The cost of such control, maintenance, supervision, repair and inspection shall be borne by the city, within the amounts duly appropriated therefor.

c. Right of entry. 1. The commissioner of environmental protection, his or her deputies and any other officers and employees of the department of environmental protection, when authorized by such commissioner, may enter upon public or private property and bring in necessary equipment at reasonable hours, for the purpose of exercising the powers or performing the duties of the department under this section. Refusal to permit such entry or equipment shall be punishable as provided in section 24-524 of this chapter.

2. The owner of any parcel of real property connected to the public sewer system, as a condition precedent to the continuance of such connection, and the owner of any parcel of real property who makes application or causes an application to be made on his or her behalf for connection with the public sewer system, as a condition precedent to the granting of permission for such connection, shall be deemed to have consented and agreed that the commissioner of environmental protection and his or her deputies and such other officers or employees of the department of environmental protection as are authorized by such commissioner may, without fee or hindrance, enter the premises connected with the sewer system, or any part thereof and bring in any necessary equipment at proper or reasonable hours for the purpose of exercising the powers and duties of such department prescribed by this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a4-19.0 added LL 27/1966 § 1

Sub c par 1 amended LL 41/1983 § 8

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-523

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-523 Industrial waste; sewer surcharges.

a. Definitions. As used in this section, the following terms shall mean:

1. Commissioner. Commissioner of environmental protection.

2. Sewer system. The sewers, manholes, intercepting sewers, sewage pumping, treatment and disposal works, and any other plants, works or equipment and accessories within the city, which are used or useful in connection with the collection, treatment or disposal of sewage and waste, and which are owned, operated or maintained by the city as part of the public sewer system.

3. Sewage. The water-carried human or animal wastes from residences, buildings, industrial establishments, or other places, together with such ground water infiltration and surface water as may be present. The admixture with sewage as above defined by industrial waste or other wastes as hereafter defined, also shall be considered "sewage" within the meaning of this section.

4. Industrial waste. Any liquid, gaseous or solid substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources.

5. Other wastes. Garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, and all other discarded matter not sewage or industrial waste.

6. B.O.D. (Denoting biochemical oxygen demand). The laboratory determination of the quantity of oxygen

utilized in the biochemical oxidation of organic matter in a given time and at a specified temperature. It is expressed in parts per million (p.p.m) or (mg/liter) of oxygen used in a period of five days at twenty degrees C.

7. S.S. (Denoting suspended solids). The laboratory determination of the dry weight expressed in parts per million (p.p.m) or (mg/liter) of solids that either float on the surface or are in suspension in sewage and can be removed from sewage by filtration.

8. pH. The logarithm of the reciprocal of the hydrogen ion concentration. It indicates the intensity scale of acidity and alkalinity expressed in terms of pH scale running from 0. to 14. A pH value of 7.0 the midpoint of the scale, represents exact neutrality. Values above 7.0 indicate alkalinity and those below 7.0 acidity.

9. Chlorine demand. The amount of chlorine expressed in milligrams per liter which will complete the normal reactions with all chemicals and materials in the waste leaving an excess of 0.1 milligrams per liter after thirty minutes contact time at room temperature.

10. Normal Sewage. Sewage, industrial waste or other wastes having all of the following characteristics:

[See tabular material in printed version]

and such other characteristics as may be specified by the commissioner by rules and regulations promulgated pursuant to the provisions of subdivision e of this section.

12. Pollutants. Substances which may be present in sewage, industrial waste or other waste, whether gaseous, liquid or solid, the amounts of which, for the purposes of this section, shall be determined by the sum of the B.O.D. and the S.S. present therein.

13. Toxic substances. Any substance on the list of toxic pollutants or combination of pollutants published by the administrator of the federal environmental protection agency pursuant to section 307(a)(1) of the federal water pollution control act, commonly referred to as the clean water act, as amended, or any substance whether gaseous, liquid or solid, which when discharged to the sewer system may tend to (i) interfere with or inhibit any sewage treatment plant process or disposal operations, or (ii) be detrimental to the health of human beings or animals or to aquatic life.

14. Cost per pound of removing pollutants from sewage discharged into the sewer system. An amount certified annually by the commissioner which shall be determined by dividing the total costs of removing pollutants from the sewage discharged into the sewer system during the calendar year immediately preceding the date of certification (including the interest and amortization paid in such year upon indebtedness for capital improvements in connection therewith other than original plant construction or expansion) as computed by the commissioner, by the total number of pounds of pollutants removed in such year as computed by the commissioner. The amount so certified shall be filed in the department of public works on July first of each year and shall be used in computing the surcharges hereunder for the use of the sewer system during the one year period commencing on such July first.

15. Laboratory determination. The measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement test or analysis, of "Standard Methods for Examination of Water and Sewage" a joint publication of the American public health association, the American waterworks association and the water pollution control federation or in accordance with any other method prescribed by the commissioner by rules and regulations promulgated pursuant to this section.

b. Imposition and computation of sewer surcharge.

1. In addition to any other fees, charges or sewer rents provided by section 24-514 of the code or any other law, the owner of any parcel of real property connected with the sewer system, including but not limited to real property connected with the sewer system by means of a private sewer or drain emptying into the sewer system, shall pay a

surcharge for the use of the sewer system for discharging any sewage, industrial waste or other waste, accepted for admission thereto in which the characteristics resulting from pollutants contained therein exceed the maximum values of such characteristics in receivable industrial waste as defined in subdivision a of this section and the rules and regulations of the commissioner adopted pursuant to this section.

2. i. Such charge shall be computed by the commissioner in accordance with the following formula: The amount of the surcharge shall equal the product of:

(A) the cost per pound of removing pollutants from the sewage in the sewer system, (B) a conversion factor and (C) the volume of sewage, industrial waste or other wastes discharged into the sewer system, multiplied by the sum of (A) the average concentration in parts per million by weight of suspended solids for sewage, industrial waste or other wastes discharged into the sewer system, in excess of three hundred fifty parts per million, and (B) the average concentration in parts per million by weight of the biochemical oxygen demand for sewage, industrial waste, or other wastes discharged into the sewer system in excess of three hundred parts per million. Such formula expressed in symbols shall be as follows:

$$Ds = C \times F \times V \times [(S.S. - 350) + (B.O.D. - 300)]$$

where

Ds =	amount of surcharge, in dollars;
C =	cost per pound (in dollars) of removing pollutants from the sewage discharged into the sewer system expressed to the nearest tenth of a cent;
F =	62.4 1,000,000, i.e., the factor for converting parts per million by weight to pounds per million cubic feet;
V =	volume, in cubic feet of sewage, industrial waste or other wastes discharged from such premises into the sewer system;
S.S. =	parts per million by weight of suspended solids in sewage, industrial waste or other wastes discharged from such premises into the sewer system;
350 =	maximum parts per million by weight of S.S. allowable in receivable industrial waste;
B.O.D. =	parts per million by weight of B.O.D. in the sewage, industrial waste or other wastes discharged from such premises into the sewer system;
300 =	maximum parts per million by weight of B.O.D. allowable in receivable industrial waste.

ii. In applying such formula the commissioner may use, as the figure representing the number of cubic feet of sewage discharged into the sewer system, (A) the amount of water supplied to the premises by the city or a private water company as shown upon the water meter if the premises are metered, or (B) if the premises are supplied with river water or water from private wells, the amount of water supplied from such sources as estimated by the commissioner, pursuant to paragraph four of subdivision b of section 24-514 of this chapter, or (C) if such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system made by the commissioner, pursuant to the provisions of paragraph five of subdivision b of section 24-514 of the code, or (D) the number of cubic feet of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his or her own expense in accordance with the terms and conditions of the permit issued by the commissioner pursuant to this method, or (E) a figure determined by the commissioner by any combination of the foregoing or by any other equitable method.

c. 1. The commissioner may require that a permit be obtained for the discharge whether direct or indirect into the sewer system or into any private sewer or drain emptying into the sewer system, of sewage, industrial wastes or other wastes, the characteristics of which do not conform to the characteristics prescribed for normal sewage in

accordance with the provisions of paragraph ten of subdivision a of this section or for the discharge of any toxic substance or any other objectionable material or substance specified by the rules and regulations promulgated pursuant to subdivision e of this section. The commissioner, in his or her discretion, may require a permit for all such discharges or for any class or category of such discharges. Any discharge pursuant to such permit shall be upon such terms and conditions as may be established by the commissioner in the issuance of such permit. Such terms and conditions may include requirements of a limitation upon the volume of sewage and the rate of flow permitted from the premises which are the subject of the permit, the installation and maintenance by the permittee at his or her own expense of facilities or equipment for intermittent or continuous measurement of sewage, industrial waste or other wastes discharged into the sewer system from such premises, the installation and maintenance by the permittee, at his or her own expense, of detention tanks or other facilities or equipment for reducing the maximum rates of discharge of sewage to such percentage of the twenty-four hour rate as may be required by the commissioner, the installation and maintenance by the permittee, at his or her own expense of such preliminary treatment facilities as may be required by the commissioner, the installation and maintenance by the permittee, at his or her own expense, of a suitable control manhole in the house sewer, if any, carrying such sewage; the submission to and approval by the commissioner of the plans for any of the facilities or equipment required to be installed and maintained by the permittee pursuant to such terms and conditions; and such other terms and conditions as may be necessary to protect the sewer system and carry out the provisions of this section. Such terms and conditions may also provide that subsequent to the commencement of operation of any preliminary treatment facilities required by the commissioner, periodic reports shall be made by the permittee to the commissioner, setting forth adequate data upon which the acceptability of the sewage, industrial waste or other wastes, after treatment, may be determined. A violation by the permittee of any term or condition of the permit shall constitute cause for revocation or suspension of the permit.

2. Whenever required to carry out the provisions of this section and the regulations promulgated pursuant to this section, the commissioner may require any person discharging directly or indirectly into the sewer system or into any private sewer or drain emptying into the sewer system to (i) establish and maintain such records, (ii) make such reports, (iii) install, use and maintain such monitoring equipment or methods (including where appropriate biological monitoring methods) (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals and in such manner as the commissioner shall prescribe) and (v) provide such other information as he or she may reasonably require.

3. Any person discharging directly or indirectly into the sewer system or into any private sewer or drain emptying into the sewer system, shall be deemed to have consented and agreed that the commissioner or his or her deputies or such other officers or employees as are authorized by the commissioner may enter on the premises from which such discharge is emitted or in which any records required to be maintained under paragraph two are located and may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph two and sample any effluents discharged from the premises to the sewer system.

4. It shall be unlawful to make any false statement, representation or certification in any application, record, report, plan, or other document filed with or required to be maintained by the commissioner or to falsify, tamper with or knowingly render inaccurate any monitoring device or method required to be maintained by the commissioner.

d. Sampling of industrial wastes. Whenever sewage, industrial waste or other waste which has characteristics which do not conform to the characteristics prescribed for normal sewage or receivable industrial waste pursuant to paragraphs ten and eleven of subdivision a of this section, or which contains toxic substances or other material or substance excluded from the sewer system by the commissioner pursuant to this section is discharged into the sewer system from any premises, the commissioner shall have the power to take such samples and tests as may be necessary to determine the nature and concentration of such wastes, and shall have the power to reassess his or her findings by taking such additional samples or tests at any time or by periodic rechecks without notice to the owner or person discharging such wastes. Samples shall be taken and flow measurements made, whenever possible, at a common manhole into which all flows of sewage, industrial waste or other waste from such premises are combined. Such manhole shall be constructed by the owner of such premises, at his or her own expense, when directed by order of the commissioner.

Whenever the installation of such a manhole is impossible or impracticable, the owner of such premises shall construct and maintain at his or her own expense, any additional manholes required by order of the commissioner, for accurate measurement of all flow of sewage, industrial waste or other wastes discharged from such premises into the sewer system. Failure to comply with an order of the commissioner issued pursuant to this subdivision may subject the premises to temporary termination of water supply in accordance with the provisions of section 11-314 of the code.

e. Rules and regulations. 1. The commissioner shall have the power to promulgate rules and regulations:

(a) identifying toxic substances and regulating, restricting or prohibiting the discharge of such substances into the sewer system in amounts or concentrations which may cause any of the adverse effects described in paragraph thirteen of subdivision a of this section;

(b) regulating, restricting or prohibiting the discharge into the sewer system of any material or substance which is or may be detrimental or destructive to the sewer system or the treatment processes thereof or to the public health or welfare;

(c) specifying the characteristics and the minimum and maximum amounts thereof, in addition to those specified in paragraph eleven of subdivision a hereof, for receivable industrial waste;

(d) such additional rules and regulations as may be necessary to protect personnel, the sewer system and the treatment process thereof and the receiving waters; and

(e) regulating the amount and concentration of substances contained in industrial waste discharged directly or indirectly into the sewer system to achieve compliance with effluent limitations imposed upon city discharges to receiving waters by federal or state law or regulation or a discharge permit issued pursuant thereto.

2. The commissioner shall by rule or regulation adopt the standards, prohibitions and requirements promulgated under the federal water pollution control act, commonly referred to as the clean water act, as amended, except where such standards, prohibitions and requirements are less stringent than those which are established by the commissioner pursuant to paragraph one or three of this subdivision.

3. Notwithstanding any inconsistent provision of paragraphs one and two of this subdivision, the commissioner may order any person discharging a toxic substance directly or indirectly into the sewer system or into any private sewer or drain emptying into the sewer system to reduce the amount or concentration of such toxic substance to a level which the commissioner determines to be economically achievable by the discharger notwithstanding that such level is lower than that which is prescribed in the regulations adopted pursuant to paragraph one or two or that the discharge is not regulated under such provision. Within twenty days after the issuance of an order by the commissioner, any person affected by such order may request a hearing before the commissioner. The commissioner may suspend, revoke or modify the order.

f. Cooperation by private persons, water companies and public agencies. The commissioner may require every person who owns or occupies real property within the city and every private water company supplying water to property within the city, to furnish him or her with such information as may be necessary to carry out the provisions of this section. The commissioner shall have the power to hold hearings and to subpoena any such persons or company, or any officer, employee or agent of any such company, and direct the production of books and papers in order to carry out the provisions of this section. Every such person, water company or public official or municipal agency, officer or employee shall cooperate with the commissioner in carrying out the provisions of this section and shall comply with all rules and regulations promulgated pursuant to this section.

g. Payment and enforcement of sewer surcharges. All surcharges imposed hereunder shall be due and payable at the times and in the manner provided in chapters three and four of title eleven of the code with respect to the payment of sewer rents based upon the metered supply of water. Such sewer surcharges shall constitute a lien upon the real property

served by the sewage system and such lien shall be prior and superior to every other lien or claim except the lien of an existing tax, water rent, sewer rent or local assessment. Such sewer surcharges shall be collected and the liens thereof may be foreclosed in the manner provided in chapters three and four of title eleven of the code. The revenues derived from the sewer surcharges imposed hereunder, including penalties and interest thereon shall be paid into the sewer fund established pursuant to section 24-514 of the code and shall be used in the manner and for the purposes provided therein.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 687-1.0 added LL 2/1961 § 1

(computations of charge LL 2/1961 § 2)

Sub b amended LL 53/1961 § 1

Sub b amended chap 100/1963 § 512

Sub e par 1 subpar d amended chap 100/1963 § 513

Sub g amended chap 100/1963 § 514

Sub h repealed LL 41/1983 § 9

Sub a pars 1, 10, 11, 13 amended LL 41/1983 § 10

Sub c amended LL 41/1983 § 11

Sub e amended LL 41/1983 § 12

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-524

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-524 Enforcement and penalties.

a. Notwithstanding any other provision of law, the commissioner of environmental protection and the environmental control board shall enforce the provisions of sections 24-504 through 24-522 and 24-523 of this chapter and the regulations promulgated pursuant thereto. Such commissioner and board shall have the power to issue such orders as may be provided for therein and such additional orders as may be necessary for the enforcement of such provisions.

b. 1. Whenever the commissioner of environmental protection has reasonable cause to believe that a discharge in violation of the provisions of sections 24-504 through 24-522 and 24-523 of this chapter or any order, rule or regulation issued by the board or commissioner or in violation of the conditions of any permit issued pursuant to such provisions creates or may create an imminent danger to the sewer system or to the public health or to the life or safety of persons, he or she may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation from which the unlawful discharge is emitted to take such action as may be necessary to halt or prevent such discharge.

2. If service of the order cannot be made personally because such person cannot be located at such time then service may be made by delivering a copy to a person of suitable age and discretion at the residence or place of business of the person sought to be served. If service cannot be made personally or by such delivery to a person of suitable age and discretion because of inability to locate or to obtain the name or address of such person at such time, service may be made by conspicuously posting a copy of such order upon the property to which it relates. The posting of such order shall be sufficient notice of such order to all persons having a duty in relation thereto under the provisions of this subdivision.

3. If the order is not complied with or so far complied with as such commissioner may regard as reasonable, within the time specified therein such commissioner may act to halt or prevent such discharge by:

i. sealing, blocking or otherwise inactivating any equipment, facility, or device;

ii. terminating the water supply to the premises;

iii. sealing, blocking or otherwise inactivating any private sewer or drain emptying directly or indirectly into the sewer system;

iv. any other means or method that is reasonable under the circumstances. For such purpose the commissioner of environmental protection or his or her deputies or such other officers or employees as are designated by the commissioner may enter on any public or private property.

4. Any person affected by such an order may make written application to the environmental control board for a hearing. Such hearing shall be provided, pursuant to the rules and regulations of the board, and shall be held within forty-eight hours after the receipt of such application. The board may suspend, modify or terminate such order.

d. 1. In the case of any continued or knowing violation of any of the provisions of sections 24-504 through 24-522 and 24-523 of this chapter or any order, rule or regulation issued by the environmental control board or commissioner of environmental protection pursuant thereto or of the conditions of any permit issued pursuant to such provisions or where the board finds that the violation of any of such provisions or of the conditions of any such permit presents or may present a danger to the environment or threatens to interfere with the operation of the sewer system, the board after notice and the opportunity for a hearing in accordance with the rules and regulations of the board, may issue a cease and desist order requiring any person who owns, leases, operates, controls or supervises any building, structure, facility or installation to cease and desist from any activity or process which causes or is conducted so as to cause such violation within the time specified in such order.

2. Such order may provide that if the order is not complied with or so far complied with as the commissioner of environmental protection may regard as reasonable within the time specified therein, such commissioner may take such action as shall be specified therein, including but not limited to:

i. sealing, blocking or inactivating any equipment, facility or device;

ii. terminating the water supply to the premises;

iii. sealing, blocking or inactivating any private sewer or drain emptying directly or indirectly into the sewer system.

For such purpose the commissioner of environmental protection or his or her deputies or such other officers or employees as are designated by such commissioner may enter on any public or private property.

e. If the respondent fails to comply with any order issued by the environmental control board or commissioner of environmental protection or with the conditions of any permit, or such board or commissioner otherwise deems it necessary, the corporation counsel, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injuction the violation of any order or permit issued by such board or commissioner.

f. Any person who violates or fails to comply with any of the provisions of sections 24-504 through 24-522 and 24-523 of this chapter or any order, rule or regulation issued by the environmental control board or commissioner of environmental protection pursuant thereto or with the conditions of any permit issued pursuant thereto shall be liable for a civil penalty not exceeding ten thousand dollars for each violation, provided that this subdivision shall not apply to

subdivision c of section 24-509 or subdivisions a and b of section 24-521. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. The environmental control board shall have the power to impose such civil penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such board. Such board, after a hearing as provided by the rules and regulations of the board, shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgments pursuant to subdivision d of section one thousand forty-nine-a of the New York city charter. A civil penalty imposed by the board may also be collected in an action brought in the name of the city in any court of competent jurisdiction. The board, in its discretion, may, within the limits set forth in this subdivision, establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense.

g. In addition to the civil penalties set forth in subdivision f of this section, any person who knowingly violates or fails to comply with any provision of sections 24-504 through 24-522 or section 24-523 of this chapter or any order, rule or regulation issued by the commissioner of environmental protection or environmental control board pursuant thereto or with the conditions of any permit issued pursuant thereto shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred fifty nor more than ten thousand dollars, or by imprisonment not exceeding thirty days, or both for each offense, provided that this subdivision shall not apply to subdivision c of section 24-509 or subdivisions a and b of section 24-521. In the case of a continuing violation each day's continuance shall be a separate and distinct offense. In addition to its application to any other person, the fine provided for in this paragraph shall be deemed a special fine for a corporation within the meaning of section 80.10 of the penal law of the state of New York.

h. Any person who violates or fails to comply with any of the provisions of sections 24-504 through 24-522 and 24-523 of this chapter or any order, rule or regulation issued pursuant thereto or with the conditions of any permit issued pursuant thereto shall be liable to the city for any expense, loss or damage suffered by the city by reason of such violation.

i. Unless otherwise provided in this section, service of any notice or order required by this section may be made either personally or by mail addressed to the last known address of the person to be served.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. f amended L.L. 35/2008 § 8, eff. Sept. 11, 2008. [See Charter

§ 1049-a Note 1]

Subds. f, g amended L.L. 27/2003 § 3, eff. May 11, 2003.

DERIVATION

Formerly § 689-1.0 added LL 41/1983 § 13

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***** Current through December 2009 ****

NYC Administrative Code 24-525

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-525 Permits.

In all cases where provision is made by law that the consent of the commissioner shall be obtained to authorize any act to be done, he or she may grant a permit therefor, subject to the restrictions of all laws in relation thereto. Upon granting any such permit, he or she may exact such cash deposit or bond, or both, as he or she may deem necessary to safeguard the interests of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 683a-1.0 added chap 100/1963 § 510

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-526

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-526 Conveyance of storm water from developments and lots and certain adjacent paved areas to off-site disposal points.

(a) Definitions. As used in this section:

(1) "Building combined sewer" means a building sewer intended to convey all types of wastewater, subject to certain restrictions;

(2) "Building sewer" means a sewer consisting of the part of the horizontal piping of a drainage system that extends from the end of a building house drain, as defined in section P100.00 of reference standard RS-16 of this code, to a street sewer or to another point of disposal. Building combined sewers and building storm sewers are types of building sewers;

(3) "Building storm sewer" means the part of the horizontal piping of a storm water drainage system that extends from a building house storm drain, as defined in section P100.00 of reference standard RS-16 of this code, to a street storm sewer, a street combined sewer or another point of disposal;

(4) "Catch basin" means a storm sewer inlet connected to a storm sewer or a combined sewer;

(5) "Development" means a tract of land which has been subdivided into two or more lots, whether or not such tract has been developed as by the installation of any utilities or the construction of any streets or buildings or other structures;

(6) "Lot" means a portion or parcel of land considered as a unit; a zoning lot;

(7) "Owner" means a person in whom legal or equitable title to property or premises is vested, a mortgagee or vendee in possession of premises, as assignee of rents, a receiver of premises, or a person listed as owner or agent for an owner on the records as to real property ownership maintained by the bureau of city collections of the department of finance unless such person establishes that such records are erroneous or, if claiming that he or she is an agent of the owner, furnishes the identity of the owner;

(8) "Person" means a natural person, company, partnership, corporation, association, governmental body or other legal entity, including any individual or entity acting in a representative capacity;

(9) "Private" means not public;

(10) "Public" means owned by the city and intended for use by the public, subject to restrictions which the city or agencies thereof may impose;

(11) "Storm water" means rainwater or surface water;

(12) "Street combined sewer" means a street sewer which is intended to receive the discharge of all types of wastewater, subject to certain restrictions, from one or more building sewers and catch basins and to convey such wastewater to an intercepting sewer, a private sewage disposal system or some other point of disposal;

(13) "Street sewer" means a sewer located in the bed of a street or elsewhere which is intended to receive the discharge of all or certain types of wastewater from one or more building sewers and, in some cases, from catch basins, and to convey such wastewater to points of disposal. Street combined sewers and street storm sewers are types of street sewers;

(14) "Street storm sewer" means a street sewer which is intended to receive the discharge of storm water from one or more building storm sewers and catch basins and to convey such storm water to a point of disposal; and

(15) "Tidal creek" means any creek where the level of water rises and falls with tidal action, or would do so if not impeded by artificial structures including but not limited to tide gates.

(b) Required conveyance of storm water for off-site disposal when public sewers into which discharge is feasible are located within five hundred feet of property. If the commissioner determines that a public street storm sewer or a public street combined sewer is located within five hundred feet, measured along a street, alley or right-of-way, from any point on the boundary of a development or of a lot which is not within a development into which it would be feasible, as described in subdivision (g) of this section, to discharge storm water from such development or lot:

(1) An owner of a lot within such a development or of such a lot not within a development, who is constructing or causing to be constructed on such a lot a single one-family or two-family detached or semidetached building, may dispose of the storm water falling or coming to rest within such lot which is required, by paragraph two of subdivision (b) of section P110.2 of reference standard RS-16 of this code, to be conveyed to a boundary of such lot abutting a street for off-site disposal, by causing such storm water to be discharged through an under-the-sidewalk drain or across a sidewalk onto a paved street improved in accordance with the requirements of the department of transportation and containing curbs; provided that catch basins adequate to receive such storm water are located, or are installed in accordance with the requirements of this code and of the department, within five hundred feet from the farthest point of storm water discharge onto such street; provided further that the commissioner determines that such means of storm water disposal is feasible, as described in subdivision (g) of this section, and also provided that the commissioner of buildings agrees with such determination.

(2) An owner of a lot within such a development or of such a lot not within a development who is constructing

or causing to be constructed a building on such lot shall dispose of the storm water falling or coming to rest on such lot which is required, by paragraph three of subdivision (b) of section P110.2 of reference standard RS-16 of this code, to be conveyed to a boundary of such lot abutting a street for off-site disposal, except as provided in paragraph one of this subdivision, by conveying such storm water, together with all storm water falling or coming to rest on all streets and other paved areas outside of such lot constructed or altered in connection with the construction of such building for the primary purpose of improving vehicular or pedestrian access thereto, by sewers, constructed in accordance with requirements in subdivision (e) of this section and elsewhere in this code and of the department, to such public sewer; provided that no sewage shall be discharged into any such public street storm sewer. If installation of a controlled flow storm water system, in accordance with the requirements of section P110.6 of this reference standard, is necessary to make it feasible to discharge such storm water into such public sewer, the owner of the lot shall install such a system.

(c) Required conveyance of storm water for off-site disposal, prior to January first, nineteen hundred ninety-four, when no public sewers into which discharge is feasible are located within five hundred feet of property. The requirements set forth in this subdivision shall apply to the construction of all new buildings for which new building permits have been filed prior to January first, nineteen hundred ninety-four. If the commissioner determines that no public street storm sewer or public street combined sewer is located within five hundred feet, measured along a street, alley or right-of-way, from any point on the boundary of a development or of a lot not contained in a development into which it would be feasible to discharge storm water from such development or such lot:

(1) An owner of a lot within such a development or of such a lot not within a development who is constructing or causing to be constructed on such lot a one-family, two-family or three-family building, where more than thirty percent of the area being developed, exclusive of streets, shall have no structures and shall be unpaved, but which area may have not more than twenty percent of the floor area of all the structures in the development devoted to nonresidential uses, may dispose of all or some of the storm water falling or coming to rest on such lot which, pursuant to paragraph three of subdivision (c) of section P110.2 of reference standard RS-16 of this code, is conveyed to a boundary of the lot abutting a street, by discharging such storm water through an under-thesidewalk drain or across a sidewalk onto a paved street improved in accordance with the requirements of the department of transportation and containing curbs, provided that:

(A) such person provides for the installation of all street storm sewers or street combined sewers and catch basins, constructed in accordance with the requirements in subdivision (e) of this section and elsewhere in this code and of the department, such that a catch basin adequate to receive such storm water, together with all storm water falling or coming to rest on all streets and other paved areas outside of such lot constructed or altered in connection with the construction of such building for the primary purpose of improving vehicular or pedestrian access thereto, shall be located within five hundred feet from the farthest point of storm water discharge onto such street, and such that the street storm sewers or street combined sewers extend from such catch basin to a point of disposal described in paragraph three of this subdivision; the requirements of this subparagraph shall not apply if private catch basins and sewers meeting all the requirements of this subparagraph are already present; and

(B) the commissioner determines that such means of storm sewer disposal is feasible, as described in subdivision (g) of this section, and the commissioner of buildings agrees with such determination.

(2) An owner of a development which shall only contain buildings described in paragraph four of subdivision (c) of section P110.2 of reference standard RS-16 of this code who conveys storm water falling or coming to rest within such development to a boundary of such development, pursuant to such paragraph, or an owner of a lot, whether or not within a development, who is constructing or causing to be constructed on such lot a new building and who is required to convey storm water falling or coming to rest within such lot to a boundary of such lot abutting a street, pursuant to paragraph five of subdivision (c) of section P110.2 of reference standard RS-16 of this code, shall convey such storm water, together with storm water falling or coming to rest on all streets and other paved areas outside of such development or lot which are constructed or altered in connection with the construction of such buildings or building for the primary purpose of improving vehicular or pedestrian access thereto, from such boundary by sewers, constructed in

accordance with the requirements in subdivision (e) of this section and elsewhere in this code and of the department, to a point of disposal described in paragraph three of this subdivision.

(3) Points of disposal for storm water disposed of pursuant to this subdivision are:

(A) the New York Harbor, or a point on a tidal creek acceptable to the commissioner as an adequate storm water outlet; provided that only building storm sewers and, if necessary, street storm sewers are constructed and that no sewage is discharged at such a point of disposal; and provided that such outlets shall only be used in compliance with applicable provisions of law;

(B) a public street storm sewer or public street combined sewer, regardless of its distance from the property, to which the commissioner determines that conveyance of storm water is feasible, as described in subdivision (g) of this section, provided that no sewage shall be discharged into a street storm sewer; or

(C) an existing private street storm sewer or private street combined sewer to which the commissioner determines that conveyance of storm water is feasible, as described in subdivision (g) of this section; provided that such street sewer connects with a public street sewer or, if it is a private storm sewer, discharges directly into the New York harbor, or into a point on a tidal creek acceptable to the commissioner as an adequate storm water outlet, in accordance with applicable provisions of law; and provided further that no sewage shall be discharged into a street storm sewer.

(d) Required conveyance of storm water for off-site disposal, on or after January first, nineteen hundred ninety-four, when no public sewers into which discharge is feasible are located within five hundred feet of property. The requirements set forth in this subdivision shall apply to the construction of all new buildings for which new building permits have been filed on or after January first, nineteen hundred ninety-four. If the commissioner determines that no public street storm sewer or public street combined sewer is located within five hundred feet, measured along a street, alley or right-of-way, from any point on the boundary of a development or of a lot not contained in a development into which it would be feasible to discharge storm water from such development or such lot, an owner of a lot within such a development or of such a lot not within a development who is constructing or causing to be constructed a building on such lot shall dispose of storm water falling or coming to rest within such lot, together with storm water falling or coming to rest on all streets and other paved areas outside of such lot which are constructed or altered in connection with the construction of such building for the primary purpose of improving vehicular or pedestrian access thereto, by means acceptable to the commissioner and the commissioner of buildings, including but not limited to those set forth in section P110.13 of this reference standard; provided, however, that such persons shall not be required to construct street storm sewers or street combined sewers for distances greater than seven hundred fifty feet.

(e) Maximum required capacity for street storm sewers or street combined sewers required by this section. The commissioner may require an owner of a lot or a development who is required by this section to construct street storm sewers or street combined sewers to construct such sewers with a capacity not to exceed twenty-five percent above and beyond the capacity which the commissioner determines is needed for the disposal of storm water falling or coming to rest on such property together with storm water falling or coming to rest on all streets and other paved areas outside of such property which are constructed or altered in connection with the construction of a building or buildings on such property for the primary purpose of improving vehicular or pedestrian access thereto. The department reserves the right to construct catch basins connected to such sewers at the cost and expense of the city, to alleviate flooding or ponding conditions, provided that the commissioner determines that the capacity of such sewers shall not be exceeded.

(f) Repair of defects in catch basins and sewers required. Any owner of property who causes any catch basin or any sewer which shall lie outside of such property to be constructed pursuant to subdivision (b), (c) or (d) of this section shall cause all defects in such catch basin or sewer and all faults in its installation to be repaired for a period of two years after it has been installed, immediately after the department orders such person to do so.

(g) Feasibility of discharging storm water into a street storm sewer or a street combined sewer. The commissioner shall determine that the discharge of storm water into a street storm sewer or a street combined sewer pursuant to this section is feasible if he or she finds that:

(1) the sewer is of adequate capacity to receive all such storm water or would be adequate to receive it if the owner of property installed controlled flow storm water systems, in accordance with the requirements of section P110.6 of reference standard RS-16 of this code, to restrict the maximum anticipated storm water flow to a level set by the commissioner;

(2) the sewer is in adequate physical condition to receive such storm water;

(3) no physical obstacle which would make conveyance of such storm water to the sewer impracticable exists between the sewer and the boundaries of the development or lot from which such storm water shall be discharged;

(4) conveyance of such storm water to the sewer is not impracticable because of the elevation of the sewer in relation to the development or lot from which such storm water shall be discharged; (5) the sewer is located in the same drainage area as all or most of the development or lot from which such storm water shall be discharged; and

(6) no other factor reasonably related to the conveyance of such storm water from such development or lot to the sewer would make the discharge of such storm water into the sewer impracticable or undesirable as a proper means of storm water disposal.

(h) Time by which construction of the part of the storm water drainage system required by this section shall be completed. The part of the storm water drainage system for property required by this section shall be completed prior to the issuance of a certificate of occupancy by the department of buildings for, and actual occupancy of, the building in connection with which such storm water drainage system is being constructed.

(i) Performance bond, license and insurance required. If an owner of property is required to construct or repair defects in catch basins or sewers which shall lie outside of such property, in connection with the construction of a new building pursuant to this section, he or she shall provide the department with:

(1) a performance bond or other security satisfactory to the department and approved as to form by the law department of the city for the full cost, as estimated by the department, of performing all such construction and repair work;

(2) any license or other written instrument which the commissioner or the law department of the city may reasonably request which gives the department, its agents and contractors and the surety for a performance bond described in paragraph one of this subdivision the legal right to enter private property to perform such construction and repair work, pursuant to the terms of the performance bond or in accordance with the conditions of acceptance of other security described in paragraph one of this subdivision, and the legal right to connect to, to extend or to discharge storm water into any private sewer authorized as a point of disposal pursuant to paragraph three of subdivision (c) of this section, in the event that the owner of property fails to do so as required by this section; and

(3) insurance of a kind and in an amount which the commissioner and the law department of the city deem satisfactory to insure the city fully for all risks of loss, damage to property or injury to or death of persons to whomever occurring arising out of or in connection with the performance of such sewer construction and repair work.

(j) Contractual obligations of the city not abrogated. The provisions of this section shall not be construed to abrogate or contravene any contractual obligation of the city to construct storm water drainage systems or parts thereof. The requirements of subdivisions (b), (c), (d), (f) and (i) of this section shall be inapplicable to an owner of property insofar as they relate to any construction work required to be performed by the city pursuant to such a contractual obligation.

(k) Determination by the board of standards and appeals. Any determination made by the board of standards and appeals with reference to the disposal of storm water, pursuant to the provisions of section 27-160 and section P110.2 of reference standard RS-16 of this code, shall be binding upon the department for the purposes of the enforcement and administration of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1403.5-1.0 added LL 7/1974 § 8

(legislative findings LL 7/1974 § 1)

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Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-526.1 Sustainable stormwater management.

a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

1. "Best Management Practices" or "BMPs" mean source control measures.

2. "Bioretention" means using living vegetative systems to capture, store, and cleanse stormwater. Bioretention may be achieved by, among other things, rain gardens, vegetated buffers, swales, and medians.

3. "Bluebelt" means engineered and natural aquatic systems, such as existing wetlands, streams and ponds, that control the movement of water and prevent flooding,as an alternative to constructing storm sewers.

4. "Blueroof" means a rooftop detention system.

5. "Cisterns" means storage tanks that are used to capture and store rainwater and other precipitation.

6. "City" means the city of New York.

7. "Downspout disconnections" means disconnecting downspouts from the sewer system, such that water from downspouts drains into bioretention devices, cisterns, or other stormwater control devices.

8. "Green roof" means a living vegetative system partially or wholly covering a roof.

9. "Green street" means a street that incorporates environmentally beneficial engineering techniques into its

design, including vegetative source control measures.

10. "Green wall" means a living vegetative system partially or wholly covering a wall.

11. "Grey-water reuse" means reuse of wastewater for beneficial purposes such as irrigation.

12. "High level storm sewer" means a storm sewer in which the catch basin connection is removed from the combined sewer under streets or in the public right-of-way and connected to a new storm sewer that will convey stormwater directly to ambient surface waters. As a general matter this type of separation is also called "partial separation."

13. "Loading" means an amount of matter that is introduced into a receiving waterbody.

14. "Non-technological measure" or "non-technological source control measure" means a source control measure that does not use technology to control stormwater, such as operational strategies, procedural changes to design and construction protocols, or performance standards.

15. "Office" shall mean such office or agency as the mayor shall designate.

16. "Permeable pavement" means any area paved with material that permits water penetration into a suitably designed discharge bed. Permeable pavement may consist of any porous surface materials that are installed, laid, or poured.

17. "Pollution loading" means an amount of pollutants that is introduced into a receiving waterbody.

18. "Rain barrel" means a barrel used to hold rainwater.

19. "Source control measure" means any stormwater management practice designed to reduce and/or slow the flow of stormwater into a combined sanitary and stormwater sewer or a separate stormwater sewer, including, but not limited to, any such practices commonly referred to as "Low Impact Development" or "Best Management Practices."

20. "Subgrade storage chambers" means underground stormwater storage facilities that are designed to hold stormwater to prevent such water from entering combined or other sewer systems.

21. "Technological measure" or "technological source control measure" means a source control measure that uses a technology to control stormwater, such as rooftop detention or a constructed bioswale.

22. "Tree cover" means the extent to which an area is covered by the canopy of living trees.

23. "Tree pit design" means the specifications according to which space is created for the planting of trees in paved areas, including but not limited to the depth and breadth of the planting area, the type of soil, and the type of barrier, if any, constructed around the perimeter of the planting area.

24. "Vegetative source control measure" means a source control measure that relies on living vegetative systems to reduce and/or slow the flow of stormwater into a combined sanitary and stormwater sewer or a separate stormwater sewer.

25. "Waterbody means any river, tidal estuary, bay, creek, canal, or other body of surface water.

b. Development of sustainable stormwater management plan. 1. The office shall develop a proposed and final sustainable stormwater management plan. Such plan shall identify and provide for the implementation throughout the city, on both public and private properties, of efficient, effective, and feasible technological and non-technological source control measures to reduce the volume of water flowing into the city's sewer system and the pollution loadings

carried by stormwater into the city's waterbodies. The overall goals of such plan shall be to reduce the volume of stormwater flowing into the city's sewer system, to improve water quality in the city's waterbodies and to protect the public health through the restoration and protection of the ecological health of the city's waterbodies, and to enhance use and enjoyment of the city's waterbodies for recreational activities.

2. No later than October 1, 2008, the office shall submit a draft sustainable stormwater management plan that meets the requirements of this section to the mayor, speaker of the council, and the public for review and comment. Submission to the public may be made by posting a draft plan on the internet.

3. Two months after the release of the draft plan, but no later than December 1, 2008, the office shall submit a final sustainable stormwater management plan that meets the requirements of this section to the mayor, speaker of the council, and the public. Such plan shall be reviewed and revised by the office as necessary to achieve such plan's goals; provided that such review must occur at least once every four years. Any such revisions and the reasons for such revisions should be clearly indicated in such plan.

4. No later than October 1, 2010, and no later than October 1 of every second year thereafter, the office shall submit a report to the mayor, the speaker of the council, and the public, which shall include, but not be limited to, the implementation status of the measures included in the plan prepared pursuant to this subdivision, including a quantitative assessment, where susceptible to quantification, and a qualitative assessment of the progress made toward achieving each of the milestones identified in such plan and, where revised, an explanation for such revision.

c. Plan elements. The plan prepared pursuant to subdivision b of this section, as it may be revised pursuant such section, shall include but not be limited to the following:

(1) a statement of goals related to reducing the volume of stormwater flowing into the city's sewer system, improving water quality in the city's waterbodies, protecting the public health through the restoration and protection of the ecological health of the city's waterbodies, enhancing use and enjoyment of the city's waterbodies for recreational activities, and such other aspects of stormwater management deemed appropriate.

(2) an identification and description of the technological and non-technological measures included in such plan, including, for each such measure, (i) a statement regarding the general site conditions required and types of properties where each such measure is typically feasible for implementation and (ii) identification to the greatest extent feasible of the areas in the city that satisfy those conditions and a prioritization of such areas according to the magnitude of potential benefits achievable through implementation of source control measures;

(3) for each of the technological measures included in such plan, (i) an identification of the agencies and/or offices of the city that would oversee and/or be responsible for constructing, permitting or otherwise approving or promoting such measures and (ii) any prerequisites to adoption of such technological measures, including but not limited to technical studies, pilot projects, funding and budgetary considerations, and federal, state or local legislative or regulatory action;

(4) for each of the non-technological measures included in such plan, (i) an identification of protocol amendments and the agencies and/or offices of the city that would be responsible for adopting such measures and (ii) any prerequisites to adoption of such measures, including but not limited to funding and budgetary considerations, and federal, state or local legislative or regulatory action;

(5) descriptions of any modeling methodologies used to identify technological measures, a statement of all inputs used to complete any modeling run, and the results of any modeling, or a compilation of other supporting data, whether derived from a model or not;

(6) for each of the specific goals, measures and prerequisites included in such plan, (i) a timeline setting forth target dates to achieve interim and final milestones, including but not limited to protocols for monitoring, assessing, and

reporting progress toward achieving such milestones, provided that such milestones shall, where susceptible to quantification, be expressed quantitatively, and any potential prerequisites to achieving such milestones, including but not limited to technical studies, pilot projects, and federal, state or local legislative action and (ii) identification of budgetary authorizations, appropriations, or other allocations that are necessary to implement the measures and goals included in such plan;

(7) protocols for signage and for a program of public notification to inform the public of the location and occurrence of combined sewer overflow events, which such program shall include a mechanism to alert potential users of the waterbodies affected by combined sewer overflow events, through the use of radio, print media, internet, 311, e-mail alerts or similar modes of communication, of the estimated nature and duration of conditions that are potentially harmful to users of such waterbodies;

(8) a methodology to be used for quantitatively measuring the performance of source control measures undertaken and/or monitored by the city where feasible;

(9) a summary of public input provided during the development of such plan, steps taken to solicit input pursuant to subdivision e of this section, the office's responses to comments received from the public pursuant to subparagraph (i) of paragraph 1 of subdivision e of this section, and a summary of steps the department has taken and will take to involve the public, including organizations and members of the public with relevant knowledge and expertise, in the implementation of such plan.

d. Initial assessment of measures. 1. In addition to any other source control measure the office deems appropriate in the plan prepared pursuant to this section, the office shall assess the technical and environmental feasibility, benefits, costs and cost-effectiveness of including the following source control measures:

(i) amending the protocols, procedures and/or rules and regulations applicable to the scoping, design, preliminary and final budget approval, and operations and maintenance of city-owned or city-financed projects, to require the consideration of source control measures and other stormwater controls at the earliest possible stage;

(ii) establishing performance, construction and/or design standards for the minimization and control of stormwater runoff from new or existing roads, bridges, and other portions of the public right-of-way;

(iii) establishing performance, construction and/or design standards for the minimization and control of stormwater runoff from new or existing public open space, public building green roofs, parks, or plazas;

(iv) requiring mandatory technological source control measures on public and private property, including, but not limited to, bluebelts, green roofs, bioretention, tree cover and tree pit design, permeable pavement, wetland preservation and creation, green streets, green walls, blue roofs, rain barrels, cisterns, downspout disconnections, subgrade storage chambers, and grey-water reuse; provided that such plan shall prioritize vegetative source control measures where feasible;

(v) creating incentives, including, but not limited to, tax incentives, grant programs, low-interest financing, expedited permitting, and restructuring of water and sewer rates, to encourage the owners of new and existing private buildings to retrofit or construct such buildings and improvements with appropriate source control measures;

(vi) amending provisions in the building code, housing maintenance code, zoning resolution, and other applicable federal, state and local laws, rules and regulations applicable to all new or existing public or private construction projects or property, to require the implementation of source control measures and to institute quantitative performance standards for the minimum amount of stormwater that must be retained, detained, infiltrated, and/or reused on-site;

(vii) using new and existing public open space, public building roofs, parks, and plazas for detention, retention,

infiltration, reuse and natural filtering of stormwater;

(viii) implementing a public education program to increase awareness about the need to reduce the flow of stormwater into the city's sewer systems and waterbodies, and about specific methods and practices for doing so;

(ix) supplementing high-level storm sewers with source control measures to reduce stormwater runoff volume and/or pollutant loadings at sites where high-level storm sewers are built, have been proposed, or are under consideration;

(x) promoting water conservation;

(xi) adapting ongoing ambient water quality monitoring programs to provide for regular collection of samples in the immediate vicinity of combined sewer outfalls during or immediately following combined sewer overflow events; and

(xii) encouraging the development of existing and new local markets, job training, and employment opportunities to support the implementation and maintenance of source control measures.

2. For purposes of the assessments carried out pursuant to paragraph one of this subdivision benefits considered shall be quantified to the greatest extent practicable and shall include, but not be limited to (i) water quality benefits to particular waterbodies, stormwater capture rates, reductions in combined sewer overflow discharge volumes, the potential savings in hard infrastructure, construction and maintenance costs, and reduction of the city's operating expenses for sewage treatment and (ii) non-water quality related environmental, public health, aesthetic, and economic benefits, such as those associated with cooling and cleansing the air, reducing energy demand, sequestering and reducing emissions of greenhouse gases, beautifying neighborhoods, providing habitat for birds and other wildlife, and developing new local markets that can stimulate job growth.

e. Public input. 1. The office shall solicit public input during the development of the plan prepared pursuant to subdivision b of this section. Opportunities for such input shall include, at a minimum, (i) a thirty day comment period immediately following the release of the draft plan pursuant to this section, at which time the office shall consider all comments received on such plan and (ii) quarterly public forums at which representatives of the office shall provide updates on the office's progress in preparing such plan and invite feedback from participants. The office shall respond to all substantive comments received pursuant to subparagraph (i) of paragraph 1 of this subdivision.

2. The office shall involve the public and organizations and members of the public with relevant knowledge and expertise in the implementation of the measures included in such plan.

f. Each management report and preliminary management report submitted to the council by the mayor pursuant to section 12 of the New York city charter shall include, with respect to each agency or office identified in paragraphs 3 and 4 of subdivision c of this section, quantitative indicators of progress towards implementing the measures included in the plan prepared pursuant to subdivision b of this section.

HISTORICAL NOTE

Section added L.L. 5/2008 § 2, eff. Feb. 19, 2008. [See Note 1]

NOTE

1. Provisions of L.L. 5/2008:

Section 1. Legislative findings and intent. The Council finds that New York City receives, on average, 44 inches of precipitation a year, more than most other major United States cities. The combined sanitary and storm sewer system is designed to divert stormwater runoff during certain precipitation events to ambient surface waters so that the flow to

wastewater treatment plants does not exceed their capacity or cause the backup of sewer water into residences and onto streets. As a result of combined sewer overflows, an average of approximately 27 billion gallons of combined sewage and stormwater are discharged, untreated, into the City's ambient surface waters in a typical year.

It has been reported that such combined sewer overflows ("CSOs") introduce significant amounts of bacteria such as fecal coliform and other pollutants such as nitrogen, into the City's waterbodies, posing a danger to the public health, damaging the ecology, and making some of such waterbodies unsuitable for many recreational activities. In portions of the City where separate sewers convey sanitary sewage and stormwater, untreated stormwater discharge carries significant amounts of bacteria and other pollutants, as does stormwater that by-passes the sewer system altogether and flows directly into the City's waterbodies.

Source control strategies that decrease the amount of stormwater entering the wastewater treatment system are valuable tools to reduce the occurrence and volume of CSOs and other stormwater discharges. Effective source control strategies also provide other benefits, such as decreased energy consumption and economic benefits associated with supporting local markets for source control strategies. The Council finds that the development and implementation of a sustainable stormwater management plan is vital to improve water quality in the City and thereby better protect the public health through the restoration and protection of the ecological health of the City's waterbodies and to the enhanced use and enjoyment of the City's waterbodies for recreational activities.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-527

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 5 DRAINAGE AND SEWER CONTROL

§ 24-527 Watershed protection plan for the watershed/sewershed of Jamaica bay.

a. No later than October 1, 2007, the commissioner shall complete a watershed protection plan for the watershed/sewershed of Jamaica bay, which shall, among other things, include measures the city can implement to help protect Jamaica bay. The overall goal of such plan shall be to restore and maintain the water quality and ecological integrity of Jamaica bay.

b. The commissioner shall assess the technical, legal, environmental and economical feasibility of including the following measures, at minimum, in the plan prepared pursuant to subdivision a of this section:

(1) best management practices for the minimization and control of soil erosion and stormwater runoff and reduction of both point and non-point source pollution, including, but not limited to, the promotion of development practices such as the on-site detention and infiltration of stormwater runoff, the minimization of impervious surfaces and the creation of natural systems to control and minimize stormwater runoff;

(2) measures to address threats to aquatic habitat, including, but not limited to, stabilizing and restoring salt marshes, wetlands, soils and other natural areas, strengthening ecological buffers, restoring natural features to the Jamaica bay watershed/sewershed shoreline, and reestablishing water flows;

(3) land acquisition and land use planning practices and opportunities, including, but not limited to, incentives, such as expedited permitting and property tax relief, for infill, brownfield redevelopment and other environmentally beneficial development, and disincentives, such as stricter development guidelines, for development that may adversely impact Jamaica bay;

(4) a protocol for coordination with appropriate federal, state and city governmental entities that have jurisdiction over the Jamaica bay area, with respect to, but not limited to, efforts to restore and maintain the water quality and ecological integrity of Jamaica bay and notification regarding proposed development projects within the Jamaica bay watershed/sewershed that may adversely impact Jamaica bay;

(5) a protocol for coordination with the office of operations that ensures that environmental assessments and reviews of projects within the Jamaica bay watershed/sewershed address potential impacts to Jamaica bay and are conducted pursuant to all applicable federal, state and city environmental quality review laws and regulations;

(6) a public education program, including, but not limited to, programs for schools, developers, commercial facilities, civic groups and other local organizations and entities to increase awareness about the ecological significance and degradation of Jamaica bay; potential threats to Jamaica bay; restoration and watershed stewardship activities undertaken by the department and others involving Jamaica bay; and methods and practices to reduce pollution in Jamaica bay; and

(7) a program to target enforcement efforts that will help reduce polluting behaviors and operations that may adversely impact Jamaica bay.

c. The watershed protection plan prepared pursuant to subdivision a of this section, as it may be revised pursuant to subdivision h of this section, shall contain the following:

(1) specific goals related to restoring and maintaining the water quality and ecological integrity of Jamaica bay;

(2) the geographic boundaries of the watershed/sewershed of Jamaica bay for the purpose of achieving the goals of such plan and an explanation for the selection of such boundaries;

(3) the assessments the commissioner completed for each measure considered for inclusion in such plan;

(4) for any final recommendation of the Jamaica bay watershed protection plan advisory committee established pursuant to subdivision j of this section that was not assessed for inclusion or incorporated in such plan, an explanation for such omission; and

(5) a schedule, including interim and final milestones, for implementing the measures and achieving the specific goals included in such plan and methods of monitoring progress towards achieving such milestones and goals.

d. No later than October 1, 2006, the commissioner shall complete an interim report on the preparation of the watershed protection plan required pursuant to subdivision a of this section, which shall include, at minimum, the following elements:

(1) a description of the current status of the plan preparation, including, but not limited to, the status of all feasibility assessments of measures conducted pursuant to subdivision b of this section; and

(2) for each preliminary recommendation of the Jamaica bay watershed protection plan advisory committee provided to the commissioner pursuant to paragraph four of subdivision j of this section, the commissioner shall state whether:

i. the recommendation will be incorporated into the plan required pursuant to subdivision a of this section;

ii. the recommendation will not be incorporated into such plan, in which case the commissioner shall provide a detailed explanation of the basis for any such omission; or

iii. the recommendation will be further assessed for inclusion in such plan, in which case the commissioner shall provide a detailed explanation of the reason for such further assessment, including a timeline for such assessment's

completion.

e. No later than March 1, 2007, the commissioner shall complete a draft of the watershed protection plan for the watershed/sewershed of Jamaica bay required pursuant to subdivision a of this section.

f. The commissioner shall implement the plan prepared pursuant to subdivision a of this section, as it may from time to time be revised pursuant to subdivision h of this section, in accordance with its provisions.

g. The commissioner shall submit to the mayor and the speaker of the council the watershed protection plan, draft of such plan and interim report prepared pursuant to subdivisions a, d and e of this section, or any revised plan prepared pursuant to subdivision h of this section, no later than five business days after its completion.

h. The watershed protection plan prepared pursuant to subdivision a of this section shall be reviewed and revised as necessary to achieve its goals, but in no event shall such review occur less often than once every two years.

i. No later than October 1, 2008, and no later than October 1 of every second year thereafter, the commissioner shall submit a report to the mayor and the speaker of the council, which shall include, but not be limited to:

(1) the implementation status of the measures included in the watershed protection plan prepared pursuant to subdivision a of this section, as it may have been revised pursuant to subdivision h of this section; and

(2) where the plan has been reviewed in accordance with subdivision h of this section and the commissioner determines that no revisions are required, such determination and the reasons for it.

j. (1) A Jamaica bay watershed protection plan advisory committee shall be established, which shall provide advice to the commissioner for the duration of its term and provide preliminary and final recommendations to the commissioner and the speaker of the council on the watershed protection plan required pursuant to subdivision a of this section regarding: i. the specific goals of such plan related to restoring and maintaining the water quality and ecological integrity of Jamaica bay;

ii. the geographic boundaries of the watershed/sewershed of Jamaica bay to be included in such plan;

iii. any measures that should be assessed by the commissioner for inclusion in such plan, in addition to those listed in subdivision b of this section;

iv. the assessment of the technical, legal, environmental and economical feasibility of including in such plan the measures listed in subdivision b of this section and any additional measures; and

v. a schedule, including interim and final milestones, for implementing the measures and achieving the specific goals to be included in such plan and methods of monitoring progress towards achieving such milestones and goals.

(2) Such advisory committee shall be comprised of seven members, three of whom shall be appointed by the speaker of the council and four by the mayor. The members shall be appointed within forty-five days after the effective date of this section and shall serve without compensation. The chairperson(s) shall be elected from amongst the members. Any vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. The commissioner may provide staff to assist the advisory committee.

(3) Such members of the advisory committee shall serve until three months after the date upon which the commissioner completes the watershed protection plan prepared pursuant to subdivision a of this section, after which time the committee shall cease to exist.

(4) No later than July 1, 2006, the chairperson(s) of such committee shall submit a report containing the committee's preliminary recommendations regarding the watershed protection plan required pursuant to subdivision a of

this section to the commissioner and the speaker of the council.

(5) No later than June 1, 2007, the chairperson(s) of such committee shall submit a report containing the committee's final recommendations regarding the watershed protection plan required pursuant to subdivision a of this section to the commissioner and the speaker of the council.

HISTORICAL NOTE

Section amended L.L. 36/2006 § 1, eff. Aug. 23, 2006.

Section added L.L. 71/2005 § 2, eff. July 20, 2005. [See Note 1]

Subd. b par (5) amended L.L. 17/2008 § 4, eff. May 6, 2008.

NOTE

1. Provisions of L.L. 71/2005:

Section 1. Legislative findings and intent. In October of 1972, the United States Congress established the Gateway National Recreation Area ("Gateway") as part of an effort to bring the National Park System and its ethic of preserving and protecting outstanding resources closer to major urban areas.

Gateway encompasses the largest collection of natural systems, wildlife habitats, historic resources, and recreational opportunities in the New York City/New Jersey metropolitan area. It also encompasses numerous sites of critical natural and cultural importance to the health of local ecosystems, to the life of migratory and native species and to the military, navigational and aviation history of the region and the nation, especially in the context of attendant defenses of New York Harbor.

According to the National Park Service (NPS), Gateway is the only extensive public natural area in the New York City region. The Jamaica Bay Unit is one of several units, consisting of lands, waters, marshes and submerged lands, comprising Gateway. The Jamaica Bay Wildlife Refuge ("Refuge"), established by the City of New York in 1948, is located within the Jamaica Bay Unit. The Refuge, a State and nationally recognized important bird area, encompasses 2,500 acres within the boroughs of Brooklyn and Queens. The only wildlife refuge in the National Park System, it provides a shelter for rare and endangered birds and a variety of habitats for more than 325 kinds of waterfront and shorebirds. It is also a critical stop-over area along the Eastern Flyway migration route and is one of the best and world renowned bird-watching locations in the western hemisphere.

Jamaica Bay is one of the largest and most productive coastal ecosystems in the State of New York, as well as within the Northeastern United States, and is an important recreational destination for local, national and international visitors. It contains approximately 13,000 acres of surface waters, including the largest tidal wetland complex in New York State. These wetlands provide benefits such as natural water quality improvement, flood protection and shoreline erosion control for the commercial and residential areas in and around the Bay in Brooklyn and Queens. Unfortunately, construction and development within the Jamaica Bay watershed has often been conducted without consideration of potential adverse impacts on the Bay and sometimes without notice to all interested governmental agencies, civic groups and other interested parties. One such governmental agency is the NPS, which is the primary steward of the Bay, itself, and with whom, among many other agencies, it is critical for the City to collaborate in order to protect the Bay.

Jamaica Bay's future as an oasis of great ecological importance is in severe jeopardy due to the fact that thousands of acres of the Bay's marshy islands, which serve as nesting and feeding areas for an abundance of birds and other wildlife, are rapidly and mysteriously vanishing. Scientists predict that the Jamaica Bay marshlands will completely vanish in less than twenty years if the cause of their deterioration and a solution to their preservation are not found.

This legislation would require the New York City Department of Environmental Protection to create a watershed protection plan for the watershed/sewershed of Jamaica Bay, and would create a Jamaica Bay watershed protection plan advisory committee. The Council finds that such watershed planning is vital to the future of Jamaica Bay. This legislation establishes the initial pathway towards restoring and maintaining the water quality and ecological integrity of the Bay by comprehensively assessing threats to the Bay and coordinating environmental remediation and protection efforts in a focused and cost-effective manner. Watershed protection planning for Jamaica Bay is an efficient and effective means of promoting the sustainability of the Bay's environment, the economy associated with the Bay, and the linkages between the two.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-601

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-601 Short title.

This chapter shall be known and may be cited as the "New York city hazardous substances emergency response law".

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes

has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-602

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-602 Declaration of policy.

It is hereby declared to be the public policy of the city to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment so as to preserve, protect and improve the public health, safety and welfare, and to prevent injury to human, plant and animal life and property. It is the policy of the city that every person is entitled to an environment free of hazardous substances that are detrimental to life, health, and enjoyment of property. It is hereby declared that the release or threat of release of hazardous substances into the environment is a menace to the health, safety and welfare of the people of the city and may cause extensive damage to the environment and to property. This chapter shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the powers of the board of health or the department of health and mental hygiene to engage in any of their authorized activities.

HISTORICAL NOTE

Section amended L.L. 22/2002 § 52, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

Section added L.L. 42/1987 § 6.

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

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NYC Administrative Code 24-603

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 1 SHORT TITLE, POLICY AND DEFINITIONS

§ 24-603 Definitions.

When used in this chapter:

a. "disposal" means the placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may be released into the environment.

b. "hazardous substance" means each listed hazardous substance or any other chemical substance which when released into the environment may present a substantial danger to the public health or welfare or the environment.

c. "listed hazardous substance" means any substance listed in accordance with section 24-609.

d. "person" means any individual, trust, firm, corporation, joint stock company, association, partnership, consortium, joint venture, commercial entity or governmental entity.

e. "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, or the abandonment of a container or containers containing hazardous substance or substances.

f. "response measures" include actions taken by a city agency or ordered to be taken by a city agency: (1) to prevent, minimize or mitigate the release of hazardous substances so that they do not migrate to, or in any other manner,

cause or threaten to cause substantial danger to the public health or welfare or the environment, (2) to clean up or remove released hazardous substances from the environment, and (3) which are necessary and appropriate to protect the public health or welfare or the environment from an immediate and substantial danger caused by a release or a substantial threat of a release of a hazardous substance into the environment, including but not limited to security measures to protect the public.

g. "responsible person" means

(1) any owner, operator, lessee, occupant or tenant, other than a residential lessee, occupant or tenant, of property at the time there is a release, or a substantial threat of a release, of a hazardous substance from such property into the environment or at the time of any response measures implemented in connection with any emergency involving such release or threat of release, provided that if such property is comprised of an owner-occupied residential building consisting of six or fewer dwelling units used exclusively for residential purposes, an owner of such property shall be deemed to be a "responsible person" for purposes of this paragraph, only if the willful, knowing, reckless or negligent acts or omissions of such owner caused or substantially contributed to such release or threat of release, and further provided that a federal or state chartered and regulated financial institution which has received title to the property through abandonment, foreclosure, a deed in lieu of foreclosure, or through a judicial or bankruptcy order shall not be deemed to be a "responsible person" for purposes of this paragraph, unless (i) willful, knowing, reckless or negligent acts or omissions of such person caused or substantially contributed to such release or threat of release, or (ii) the title was received in order to secure the underlying credit extension which had been entered into for the purpose of assisting the responsible person in avoidance of the provisions of this chapter, or

(2) any person whose acts or omissions caused or substantially contributed to a release, or a substantial threat of a release, of a hazardous substance into the environment, provided that where there is a release, or a substantial threat of a release, of a hazardous substance into the environment from property used for residential purposes, a person using such property as a residence and any invitee or licensee of such person who enters such property, other than an invitee or licensee engaged in a business involving the use or transport of any hazardous substance, shall be deemed to be a "responsible person" for purposes of this paragraph, only if the willful, knowing, reckless or negligent acts or omissions of such person or invitee caused or substantially contributed to such release or threat of release, or

(3) any owner, operator, lessee, occupant or tenant of the property at the time of disposal of any hazardous substance thereon, who had caused, authorized or permitted such hazardous substance to be so disposed, where there is a release, or a substantial threat of a release, of such hazardous substance into the environment, or

(4) any person who, pursuant to contractual arrangement, accepts or has accepted any hazardous substance for transport, transports such hazardous substance and there is a release, or a substantial threat of a release, of such hazardous substance into the environment, or

(5) any person who by contract, agreement, or otherwise arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of a hazardous substance owned or possessed by such person, and there is a release, or a substantial threat of a release, of such hazardous substance into the environment; provided, however, that no person, who is an entity independent from an otherwise responsible person, authorized by the commissioner of environmental protection to implement response measures at the site of a release, or a threat of a release, of a hazardous substance into the environment, shall be deemed to be a "responsible person" solely on the basis of any authorized response measures attempted or implemented by such person at such site, unless such person's willful, knowing, reckless or negligent acts or omissions caused or substantially contributed to a release, or a substantial threat of a release, of a hazardous substance into the environment.

h. "treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous substance so as to neutralize such substance or so as to render such substance nonhazardous, safer for transport, amenable for recovery, amenable for storage, or

reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance so as to render it non- hazardous.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

Subd. e amended L.L. 41/2001 § 1, eff. Sept. 10, 2001.

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-604

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 2 COST RECOVERY

§ 24-604 Recovery of emergency response costs.

a. Each responsible person shall be jointly and severally liable without regard to fault, except as otherwise provided in this chapter, for the total cost incurred by the city for response measures implemented in connection with any emergency involving a release or substantial threat of a release of a hazardous substance into the environment.

b. In any action brought by the city to recover its cost for response measures implemented in connection with any emergency involving a release or substantial threat of a release of a hazardous substance into the environment, it shall be an affirmative defense that the release or threat of release of a hazardous substance into the environment was caused solely by,

(1) an act of God;

(2) an act of war;

(3) an act or omission of a third party, other than an employee or agent of the defendant or a party whose act or omission occurs in connection with a direct or indirect contractual relationship with the defendant, if the defendant establishes by a preponderance of the evidence that (A) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances, and (B) he took precautions against foreseeable acts or omissions of any such third party and the

consequences that could foreseeably result from such acts or omissions; or

(4) any combination of paragraphs one, two or three.

c. Nothing in this chapter shall be construed to impair any remedy that a responsible person, or a guarantor of a responsible person, has or would have, by reason of indemnification, contribution, subrogation or any other lawful basis against any person, including any action to recover costs incurred for response measures.

d. Recovery by the city for response measures resulting from a release expressly authorized or permitted by applicable federal, state or local law shall be pursuant to existing law in lieu of this section. Nothing in this subdivision shall be construed to affect or modify in any way the obligations or liability of any person under any other applicable federal, state or local law, including common law, for damages, injury, or loss resulting from, or for response measures implemented in connection with, any emergency involving a release or a substantial threat of a release of a hazardous substance into the environment.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

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NYC Administrative Code 24-605

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 2 COST RECOVERY

§ 24-605 Lien for emergency response costs.

a. All costs incurred by the city, including but not limited to the costs of the departments of environmental protection, health and sanitation, and the police and fire departments, for response measures implemented pursuant to this chapter or any other applicable provision of law shall be a debt recoverable from each responsible person and a lien upon the real property of or at which an owner, operator, lessee, occupant or tenant is a responsible person and at which such response measures were implemented.

b. The mayor shall designate the agency or agencies which shall receive for filing the certificate of expenses prepared in accordance with section 24-606 and shall keep a record of all such costs incurred. Such records shall be accessible to the public during business hours. Within thirty days after the issuance of a purchase or work order for any response measure such order shall be entered on the records of the designated agency or agencies. All such records shall constitute notice to all parties.

c. Any lien imposed by this section shall arise at the later of the following:

(1) the time that the amount of any costs incurred by the city for response measures shall have been definitely computed as a statement of account and an agency designated pursuant to subdivision b of this section has caused to be filed in the office of the city collector: (i) an entry of the account stated in the book in which such charges against the property are to be entered, and (ii) copies of any notices of potential liability for such costs and statements reciting the

dates such notices were mailed, received pursuant to section 24-606; and

(2) the third day after a responsible person, who is an owner of real property at which the response measures were implemented and whose liability for any costs incurred by the city for such response measures authorizes the imposition of a lien in accordance with subdivision a of this section, is sent by both certified or registered mail and first class mail notice of such person's potential liability for such costs. Such notice may be provided prior to the mailing of the notice pursuant to subdivision d of this section, but any notice provided pursuant to subparagraph (ii) of paragraph two of subdivision a of section 24-610 shall not be deemed to be notice of such person's potential liability, unless such person's potential liabililty is specifically referred to in such notice.

d. A notice stating the amount due and the nature of the costs shall be sent by both certified or registered mail and first class mail by the city collector within five days after such entry pursuant to paragraph one of subdivision c of this section to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the property, addressed to either the owner or the agent. Such notice shall have stamped or printed thereon a reference to this section. Such notice shall constitute notice of the potential liability of such owner for such costs for purposes of paragraph two of subdivision c of this section, where no prior notice of potential liability for such costs has been sent.

e. The city collector shall maintain copies of any notices of potential liability for the costs of response measures, together with statements indicating the dates such notices were mailed, filed by any agency designated pursuant to subdivision b of this section, and copies of any notices sent pursuant to subdivision d of this section, together with statements reciting the dates such notices were mailed.

f. If such costs are not paid within thirty days from the date that notice is sent pursuant to subdivision d of this section, it shall be the duty of the city collector to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property to be calculated to the date of payment from the date of entry.

g. Such costs and the interest thereon shall continue to be, until paid, a lien on the property. Such lien may be satisfied in accordance with the provisions of section thirteen hundred fifty-four of the real property actions and proceedings law.

h. Any lien imposed by this section shall be subject to the rights of any mortgagee or lienor whose interest is perfected before notice of the lien has been filed in the office of the city collector, as provided in subdivision c of this section. Any such mortgagee or lienor shall be afforded the same protections against such lien as afforded under law against a judgment lien which arises out of an unsecured obligation and which arises as of the time of the filing of the notice of the lien imposed by this section.

i. (1) In any proceedings to enforce or discharge the lien, the validity of the lien shall not be subject to challenge based on (i) the lawfulness of the response measure implemented; or (ii) the propriety and accuracy of the items of expenses for which a lien is claimed, except as provided in this subdivision.

(2) No such challenge may be made except by the owner of the property.

(3) An issue specified in paragraph one which was decided or could have been contested in a prior court proceeding or action shall not be open to re-examination.

(4) With respect to any issue specified in paragraph one of this subdivision the certificate filed pursuant to section 24-606 shall be presumptive evidence of the facts stated therein.

j. In addition to establishing a lien, the city may recover such costs and interest thereon by bringing an action against the responsible person. The institution of such action shall not suspend or bar the right to pursue any other lawful remedy for the recovery of such costs.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

Subd. f amended L.L. 62/2005 § 15, eff. June 6, 2005.

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-606

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 2 COST RECOVERY

§ 24-606 Certificate of expenses.

Upon the completion of any response measure giving rise to a lien, the city agency implementing such response measure shall file with the agency or agencies designated by the mayor pursuant to section 24-605 a certificate setting forth the work done and the expenses incurred and certifying that such expenses were necessary and proper in the exercise of its lawful powers and, where applicable, apportioning such expenses among lots or buildings belonging to different persons. The city agency implementing such response measure shall also file a copy of any notices of potential liability for such expenses it has mailed for purposes of paragraph two of subdivision c of section 24-605 and a statement reciting the date of any such mailing.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-607

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-607 Definitions.

When used in this subchapter:

a. "commissioner" means the commissioner of environmental protection.

b. "department" means the department of environmental pro- tection.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-608

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-608 Emergency response.

a. When the commissioner has reason to believe that there has been a release or there exists a substantial threat of a release into the environment of a hazardous substance which may present an immediate and substantial danger to the public health or welfare or the environment, the commissioner may, in his or her discretion, order any or all responsible persons to implement any response measures, or to cooperate with and assist the commissioner in implementing any response measures, deemed by the commissioner to be necessary to protect the public health or welfare or the environment, or, if the commissioner, in the exercise of his or her discretion, concludes that seeking the implementation of any such response measures by a responsible person may be detrimental to public health or welfare or the environment due to the likelihood of delay or the ineffectiveness of such response measures, or for any other appropriate reason, the commissioner may implement such response measures. The commissioner shall, where appropriate, consult with the commissioner of health, the police commissioner and the fire commissioner concerning the need for and implementation of such response measures and orders. The commissioner may also order the production of documents relevant for determining the nature and extent of the release or threat of release.

b. Nothing in this subchapter shall be construed to preclude the implementation of response measures by any other city agency, either prior or subsequent to any response measure implemented pursuant to subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-609

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-609 Hazardous substances list; release notification and response regulations.

a. The commissioner shall by regulation establish within one year from enactment of this section, a list of hazardous substances. The commissioner shall consider whether any of the following substances shall be included on such list: (1) the extremely hazardous substances set forth in a list published pursuant to the emergency planning and community right-to-know act of 1986, (2) the hazardous wastes identified under or listed pursuant to the resource conservation and recovery act of 1976, as amended, (3) the hazardous substances referred to in or designated pursuant to the comprehensive environmental response, compensation, and liability act of 1980, as amended, (4) the elements, compounds and mixtures determined to be hazardous chemicals in accordance with standards for toxic and hazardous substances promulgated pursuant to the occupational safety and health act of 1970, as amended, and (5) the hazardous materials designated pursuant to the hazardous materials transportation act, as amended.

b. The commissioner may promulgate regulations requiring any responsible person who knows or has reason to know of any release of a listed hazardous substance to immediately notify the commissioner. Such regulations shall establish the minimum quantity of any listed hazardous substance the release of which shall be reported to the commissioner and shall set forth the form and manner of any notification required. A knowing failure to comply with such notification requirement shall be punishable by a fine of not more than twenty-five thousand dollars, to be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

Subd. b amended L.L. 41/2001 § 2, eff. Sept. 10, 2001.

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

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§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-610

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-610 Orders to responsible persons; civil and criminal penalties and imprisonment.

a. (1) An order of the commissioner issued pursuant to subdivision a of section 24-608 shall specify the work to be performed and shall fix a reasonable time for compliance from the date of service of such order. Such order shall contain a statement that upon failure of the responsible person to comply with the commissioner's order within the stated time, the department may perform the work specified in the order or apply for a court order directing the responsible person to comply with the commissioner's order.

(2) (i) Service of such order shall be made upon the responsible person personally or by certified or registered mail addressed to the last known address of such person or in any manner provided for service of process by article three of the civil practice law and rules.

(ii) In instances where the commissioner knows that the responsible person served pursuant to subparagraph (i) of this paragraph is not the owner of the property at which the response measures ordered are to be implemented, notice that such order has been served, and a copy of such order, shall be sent by both certified or registered mail and first class mail to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to such property, addressed to either the owner or the agent. Such notice shall have stamped or printed thereon a reference to this section. Any failure to provide written notice as prescribed by this subparagraph shall not in any way affect the liability of any person for the cost incurred by the city for any response measures implemented in accordance with this

chapter.

(3) A copy of such order shall be filed with the office of the register in the county in which is situated the property with respect to which such order was issued.

(4) After service of such order upon a responsible person, such person may request a hearing, except in circumstances of imminent peril in which the commissioner has determined that response measures are to be implemented without any delay. The commissioner shall promulgate rules and regulations setting forth the times within which and the procedures by which requests for hearings shall be made and hearings shall be held. At such hearing the responsible persons, shall be entitled to be represented by counsel and to present evidence. The commissioner may affirm, modify or revoke the order.

b. In addition to any response measures implemented by the commissioner pursuant to section 24-608, if the responsible person fails to comply with the commissioner's order within the time fixed for compliance pursuant to subdivision a of this section, the department may perform the work specified in the order, or may apply to any court of competent jurisdiction, upon such notice and in such manner as the court shall direct, for an order directing the responsible person to comply with the commissioner's order.

c. Any responsible person who without sufficient cause, willfully violates, or fails or refuses to comply with, any order of the commissioner issued pursuant to section 24-608 may be liable: (1) for a civil penalty of not more than ten thousand dollars for each day in which such violation occurs or such failure or refusal to comply continues; and (2) for an additional civil penalty in an amount at least equal to, and not more than three times, the amount of any costs incurred by the city as a result of such person's willful violation, or failure or refusal to comply. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

d. In addition to the penalties set forth in subdivision c of this section and subdivision b of section 24-609, any person who knowingly violates or fails to comply with any order, rule or regulation issued by the commissioner pursuant to this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than twenty-five thousand dollars, or by imprisonment not to exceed one year, or both, for each violation.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

Section heading amended L.L. 41/2001 § 3, eff. Sept. 10, 2001.

Subd. c amended L.L. 41/2001 § 4, eff. Sept. 10, 2001.

Subd. d added L.L. 41/2001 § 5, eff. Sept. 10, 2001.

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes

has not reduced the need for or authority of the city to respond to emergencies caused by hazardous substance releases. The council declares that the response measures taken by the city must be effective and thorough so as to prevent injury to human, plant and animal life and damage to property and the environment.

Therefore, the council hereby determines that the department of environmental protection should specifically be authorized to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment. The council provides herein that responsible persons shall be jointly and severally liable for all lawful response and remediation costs incurred by any city agency authorized by law to respond to such emergencies, including but not limited to the departments of environmental protection, health and sanitation and the police and fire departments. It shall be the policy of the city to seek the recovery of such costs in the first instance from the persons whose actions contributed most to the release or threatened release of hazardous substances into the environmental. The council intends that this local law shall not in any way alter or limit the functions, powers and duties of the department of health, including but not limited to its authority regarding nuisance abatement and declarations of imminent peril.

§ 7. This law shall take effect on the sixtieth day after its enactment into law. Actions necessary to prepare for the implementation of this local law may be taken prior to its effective date.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-611

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-611 Regulations.

The commissioner shall have the power to promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

Section 1. Declaration of legislative intent and findings. The council finds that the release or threatened release of hazardous substances into the environment presents a substantial danger to the public health, welfare and the environment. The enactment by the state legislature of a plan for the management of hazardous wastes

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-612

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 6* HAZARDOUS14 SUBSTANCE EMERGENCIES

SUBCHAPTER 3 HAZARDOUS SUBSTANCE RELEASE; EMERGENCY RESPONSE

§ 24-612 Nonexclusivity of remedies.

Nothing in this chapter shall be construed to impair or diminish the power of the commissioner or any other agency to remove, repair, reconstruct, alter or abate a nuisance or to order any of the foregoing actions or to impose penalties on persons responsible for such nuisance or its removal, repair, reconstruction, alteration or abatement.

HISTORICAL NOTE

Section added L.L. 42/1987 § 6

FOOTNOTES

14

[Footnote 14]: * Added L.L. 42/1987 § 6, approved 7/14/1987. Effective 60 days thereafter. L.L. 42/1987 provisions.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-701

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-701 Short title.

This chapter shall be known and may be cited as the "New York city community right-to-know law."

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

15

[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-702

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-702 Definitions.

For the purpose of this chapter the following terms shall mean:

(a) "chemical name": the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service (CAS) rules of nomenclature.

(b) "citywide facility inventory database": a compendium of information filed by responsible parties with the department in accordance with this chapter regarding the location of hazardous substances.

(c) "commissioner": the commissioner of the department of environmental protection.

(d) "department": the department of environmental protection.

(e) "disposal": the placing of any hazardous substance into any land or water so that such hazardous substances or any constituent thereof may be released into the environment.

(f) "emergency response agencies": the departments of fire, police, environmental protection, health, transportation and sanitation, and the division of emergency medical services of the health and hospitals corporation.

(g) "emergency response personnel": any member of the departments of fire, police, environmental protection, health, transportation and sanitation, the division of emergency services of health and hospitals corporation and any other government agency participating in response measures undertaken in connection with a fire, or a spill, or release

or threatened release of a hazardous substance into the environment. For purposes of this chapter, the term "response measures" shall include actions taken by a city agency within the meaning of subdivision (f) of section 24-603.

(h) "extremely hazardous substance": a substance on a list of extremely hazardous substances promulgated pursuant to 42 U.S.C. section 11002 (a).

(i) "facility": all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned, leased or operated by the same person, or by any person which controls, or is controlled by or under common control with, such person, including any building, structure, installation or area involved in the processing, storage, handling, treatment, placement, disposal or use of any hazardous substance.

(j) "facility inventory form": a standard written form, developed by the department for completion by a responsible party at each privately or publicly owned facility in the city of New York.

(k) "hazardous substance": any chemical which is a physical hazard or a health hazard and which is listed on the hazardous substance list or special health hazard list. For purposes of this chapter, the term "hazardous substance" shall not include the following: (1) any food, food additive, color additive, drug, or cosmetic regulated by the federal food and drug administration; (2) any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use; (3) any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public; (4) any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer; (5) any hazardous waste as such term is defined by the solid waste disposal act, as amended by the resource conservation and recovery act of nineteen hundred seventy-six, as amended (42 U.S.C. section 6901, et seq.); (6) tobacco or tobacco products; (7) wood or wood products; (8) articles, which for purposes of this subdivision shall mean manufactured items which (i) are formed to a specific shape or design during manufacture; (ii) which have an end use function or functions dependent in whole or in part upon their shape or design during end use; and (iii) which do not release, or otherwise result in exposure to, a hazardous substance, under normal conditions of use; (9) food, drugs, cosmetics, or alcoholic beverages in a retail establishment which are packaged for sale to consumers; (10) foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace; (11) any consumer product or hazardous substance, as those terms are defined in the consumer product safety act (15 U.S.C. section 2051, et seq.) and federal hazardous substances act (15 U.S.C. section 1261, et seq.) respectively, where the employer can demonstrate it is used in the workplace in the same manner as normal consumer use, and which use results in a duration and frequency of exposure which is not greater than exposures experienced by consumers; or (12) any drug, as that term is defined in the federal food, drug, and cosmetic act (21 U.S.C. section 301, et seq.), when it is in solid, final form for direct administration to a patient.

(l) "hazardous substance list": a list of hazardous substances which the commissioner shall by regulation establish in accordance with section 24-703 of this chapter. The commissioner shall at the minimum include on the original list, those hazardous substances contained on the following existing list of dangerous substances: the New Jersey Right to Know, Hazardous Substance List developed pursuant to the Worker and Community Right to Know Act (New Jersey Administrative Code, stat. 34:5A-1 et seq.) as in effect in December of nineteen hundred eighty-seven.

(m) "health hazard": a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed persons. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(n) "material safety data sheet" (MSDS): written or printed material concerning a hazardous substance which is identical in form and content to the data sheet described at 29 C.F.R. part 1910.1200 and required under subdivision (a) of section three hundred eleven of the emergency planning and community right-to-know act of nineteen hundred

eighty-six (42 U.S.C. section 11001, et seq.).

(o) "mixture": a combination of two or more substances not involving a chemical reaction.

(p) "person": any individual, trust, firm, partnership, corporation, joint stock company, association, joint venture or government entity.

(q) "physical hazard": a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

(r) "regulated toxic substance": a substance on a list of regulated toxic substances promulgated pursuant to 42 U.S.C. section 7412 (r).

(s) "responsible party": an owner, operator, manager, or corporate officer of the person who owns, leases or operates a facility, provided that if such facility is leased, the responsible party shall be the lessee of the facility or his or her representative.

(t) "risk management plan": a plan filed by a responsible party with the commissioner pursuant to section 24-718 of this chapter.

(u) "special health hazard list": a list of hazardous substances that the commissioner may develop through regulation which would consist of substances that have been proven to be carcinogenic, mutagenic or teratogenic, as established by at least one study conducted in accordance with established scientific principles, and thereby pose a special hazard to health and safety.

(v) "treatment": any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous substance so as to neutralize such substance or so as to render such substance nonhazardous, safe to transport, amendable to recovery, amendable to storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance so as to render it nonhazardous.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (f) added L.L. 92/1993 § 2, eff. Dec. 1, 1993.

Subd. (g) relettered L.L. 92/1993 § 2, eff. Dec. 1, 1993. (formerly subd (f))

Subd. (h) added L.L. 92/1993 § 2, eff. Dec. 1, 1993.

Subds. (i)-(q) relettered L.L. 92/1993 § 2, eff. Dec. 1, 1993. (formerly subds (g)-(o))

Subd. (r) added L.L. 92/1993 § 2, eff. Dec. 1, 1993.

Subd. (s) relettered L.L. 92/1993 § 2, eff. Dec. 1, 1993. (formerly subd. (p))

Subd. (t) added L.L. 92/1993 § 2, eff. Dec. 1, 1993.

Subds. (u), (v) relettered L.L. 92/1993 § 2, eff. Dec. 1, 1993 (formerly subds. (q), (r))

FOOTNOTES

15

[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-703

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Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-703 Hazardous substance list.

The commissioner by regulation shall develop a list of hazardous substances, complying with the requirements of section 24-702(j) of this chapter, within six months from enactment of this section provided that if the commissioner determines that any substance on the required base list, as established by section 24-702(j) of this chapter, should not be placed on the final promulgated list, then the commissioner shall submit a written statement to the council indicating the reason why an amendment is necessary, at least sixty days before the date the list is to take effect. The council may within thirty days following receipt of the commissioner's statement requesting an amendment either: (i) approve or disapprove such amendment or (ii) determine that an additional ten days is needed to study such amendment by the adoption of an appropriate resolution. Upon approval by the council, such amendment shall take effect immediately. If the council disapproves such amendment, the commissioner shall not be precluded from resubmitting such amendment to the council at a later date. If the council does not approve or disapprove such amendment within such thirty day period, such amendment shall take effect on the thirty-first day after submission to the council unless the council had determined by resolution that an additional ten days is needed to study such amendment, in which case, the amendment shall take effect on the forty-first day after such submission to the council unless the council has approved or disapproved such amendment prior to such forty-first day. Except for the substances contained on the special health hazard list developed pursuant to the requirements of section 24-704 of this chapter, any substance contained on the hazardous substance list shall be reported to the commissioner, if such hazardous substance has been present at a facility in an amount which exceeds five hundred pounds. For the reporting period ending on March first, nineteen hundred eighty-nine, any mixture present in a facility in an amount which exceeds five hundred pounds, shall be reported if it contains in a concentration of one percent or more any hazardous substance listed on the New Jersey Special Health Hazards List, a subcategory of the New Jersey Right-to-Know Hazardous Substance List (New Jersey

Administrative Code, stat. 34:5A-1 et seq.) as in effect in December, nineteen hundred eighty-seven. For the reporting period ending March first, nineteen hundred ninety, any mixture present in a facility shall be reported in an amount which exceeds five hundred pounds if it contains in a concentration of one tenth of one percent or more of any such hazardous substance. For the reporting period ending on March first, nineteen hundred ninety-one, the commissioner shall by regulation establish a threshold reporting quantity for each hazardous substance and hazardous substances in mixture that are included on the New Jersey Special Health Hazards List shall be reported in the same concentration as required in the previous year. If the commissioner fails to set a specific threshold reporting quantity by March first, nineteen hundred ninety-one, then each of the hazardous substances without a specific threshold reporting quantity shall be reported to the commissioner if ten or more pounds are present at a facility.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

15

[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-704 Special health hazard list.

(a)The commissioner may develop by regulation a special health hazard list to consist of substances otherwise included on the hazardous substances list but which, because of their proven carcinogenicity, mutagenicity, or teratogenicity, pose a special hazard to health and safety. For those substances contained on this list, any amount stored or existing at a facility shall be reported to the commissioner.

(b) The commissioner shall be authorized to include within the regulations specific requirements for the special health hazards list, in addition to those established in section 24-705 of this chapter, for the reporting, handling and labeling of these substances, as he or she deems necessary.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

15

[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-705

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CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-705 Facility inventory form.

(a) The commissioner by regulation shall develop a facility inventory form within six months of enactment of this chapter. This form shall, at a minimum require the following information:

(1) the name and business address of the owner and operator of the facility, and if the facility is owned or operated by a legal entity, the name and business address of an appropriate executive officer;

(2) the name and address of the facility;

(3) the telephone number of the facility and its owner or operator;

(4) the names, titles, and daytime and nightime telephone numbers of at least two persons designated as emergency contacts for the facility;

(5) the chemical name or the common name of each hazardous substance present at the facility as provided on the material safety data sheet and the CAS indentification*16 number for each hazardous substance;

(6) an estimate, in ranges of the maximum amount and average daily amount, of the number of days located at the facility, and the specific location of each hazardous substance present at the facility at any time during the preceding calendar year;

(7) a brief description of the manner of storage of each hazardous substance present at the facility; and

(8) an indication of whether the responsible party elects to withhold location information of a specific hazardous substance from disclosure to the public pursuant to subdivision (b) of this section.

(b) A person submitting information for a facility pursuant to this chapter may request the commissioner to withhold from disclosure to the public the location of any specific hazardous substance required to be reported on a facility inventory form.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

15

[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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[Footnote 16]: * So in original.

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CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-706 Facility inventory reporting.

(a) A responsible party of a facility shall file a completed facility inventory form for such facility with the department for each substance on the hazardous substance list or the special health hazard list present within a facility that has been present in the preceding calendar year in a quantity which exceeds the threshold reporting quantity established under section 24-703 of this chapter, on or before March first of each year, beginning in nineteen hundred eighty-nine. A responsible party of a facility shall also be required to file with the department a facility inventory update, on a form approved by the department through regulation, if a previously unreported hazardous substance is added at a facility or if an already reported quantity of a hazardous substance increases by twenty-five percent or more, within thirty days of the occurrence of such event.

(b) A responsible party of a facility shall also be required to file a completed material safety data sheet for each hazardous substance at the facility with the department and with the fire department on or before March first of each year, beginning in nineteen hundred eighty-nine.

(c) A responsible party shall make copies of all information filed with the department pursuant to this section available at the facility to emergency response personnel undertaking response measures at such facility.

(d) On or before December thirty-first, nineteen hundred ninety-three, the commissioner shall by rule establish a schedule of fees that shall be paid upon the filing of the facility inventory form required by this chapter. Such fees shall be based on the amount of hazardous substances present, the number of different hazardous substances present and the type of hazardous substances present, including the presence or absence of substances classified as extremely hazardous in rules and regulations promulgated by The United States environmental protection agency pursuant to 42 U.S.C.

section 11001, et seq.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (d) added L.L. 54/1993 § 2, eff. June 30, 1993. (See Note 1)

NOTE

1. Provisions of L.L. 54/1993 § 1:

Section 1. Legislative findings. The Council finds that filing fees for facilities submitting facility inventory forms to the city's department of environmental protection are necessary to create revenue for funding of the department's "community right-to-know program". That program, established pursuant to local law number 26 for the year 1988, is currently supported by tax levy funds. Such fees, based upon the amount of hazardous substances present, number of different hazardous substances present and type of hazardous substances present, will defray the administrative costs of the department's right-to-know program, and will allow for restoration of the program's critically needed inspectional staff.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-707

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CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-707 Compilation of citywide facility inventory data.

(a) The commissioner, on or before July first, nineteen hundred eighty-eight, shall develop and publish in the City Record plans for a comprehensive notification program for all facilities as described in this chapter.

(b) The commissioner shall produce a citywide facility inventory database, on or before September first, nineteen hundred eighty-nine.

(c) The commissioner shall maintain and update, the citywide facility inventory database, and shall, on an annual basis produce the data from such database in printed form.

(d) For those substances which have been exempt from reporting pursuant to section 24-708(c), the commissioner shall acquire from the fire department, data regarding the issuance of permits or licenses for the manufacture, storage or transporting of fossil fuels, petroleum products, and combustible or flammable substances so that these locations can be included in the citywide facility inventory database.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (b) amended L.L. 92/1993 § 3, eff. Dec. 1, 1993.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-708 Exemptions.

The following persons, facilities and hazardous substances shall be exempt from the requirements of section 24-706 and 24-711: (a) facilities where the only hazardous substances, except for those substances on the special health hazard list pursuant to section 24-704, were present during the preceding calendar year in mixtures in which the total content of the hazardous substance was of one percent or less by weight or volume per container unless such hazardous substance was present at the facility in an aggregate amount of five hundred pounds or more; (b) owners or tenants of residential buildings that contain no commercial or manufacturing enterprise; or (c) fossil fuels, petroleum products, and combustible or flammable chemicals or materials, the manufacture, transportation, or storage of which is subject to the jurisdiction of the fire department pursuant to title twenty-seven of the code.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-709

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CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-709 Trade Secrets.

(a) Any person required under section 24-706 to submit information to the department may withhold from such submittal the specific chemical indentity of a hazardous substance, including the chemical name and other specific identification, if such information has been withheld as a trade secret pursuant to section three hundred twenty-two of the emergency planning and community right-to-know act of nineteen hundred eighty-six (42 U.S.C. section 11001, et seq.), article forty-eight of the public health law or article twenty-eight of the labor law. No person shall be entitled to withhold such trade secret information from such submittal unless such person demonstrates to the satisfaction of the commissioner that such information has been so determined to be a trade secret and that such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures. The commissioner may grant a temporary extension of not more than thirty days from the reporting requirements of section 24-706 for the purpose of allowing such person to make such demonstration.

(b) With respect to any information not withheld as a trade secret in the manner described by subdivision (a) of this section, the commissioner may withhold from disclosure, pursuant to article six of the public officers law, (i) specific chemical identities, including chemical names and other specific information, which are trade secrets which if disclosed would cause substantial injury to the competitive position of a commercial enterprise or (ii) methods or processes described in plans filed pursuant to section 24-718 of this chapter entitled to protection as trade secrets. The commissioner shall promulgate by rule a procedure for implementing the provisions of this subdivision. The subdivision shall not be construed to affect, limit or modify in any manner the reporting requirements of section 24-706.

(c) 1. Notwithstanding any other provision of this section, in a response to an emergency caused by the presence or release of a hazardous substance, the commissioner shall make trade secret information about such hazardous

substance available, upon request, to emergency response personnel responding to such an emergency.

2. Notwithstanding any other provision of this section, for the purpose of medical diagnosis or treatment of an individual exposed to a hazardous substance, where the commissioner has withheld any information from disclosure pursuant to subdivision (b) of this section, the person submitting such information to the department shall upon request disclose such information to medical personnel, including doctors and nurses, treating such an individual.

(d) Except as is necessary for the internal administration of the department or as is otherwise provided by subdivision (c) of this section, or by federal, state or local law, no person shall disclose to any other person any information, record or portions thereof received by the department pursuant to this chapter and determined by the commissioner to be a trade secret pursuant to subdivision (b) of this section. Each person having access to such information or records, including persons receiving such information or records pursuant to subdivision (c) of this section, shall, in a written confidentiality agreement with the person submitting such information to the department, agree that he or she will not use the information, record or portion thereof for any purpose other than internal administration of the department, response to an emergency caused by the presence or release of a hazardous substance, or medical diagnosis or treatment. In the case of a medical emergency, a written confidentiality agreement is not required as a precondition of disclosure pursuant to subdivision (c) of this section, but shall be entered into by the person receiving the information as soon as circumstances permit.

(e) Nothing in this section shall be constructed to affect, limit or modify in any manner the disclosure of any information to a health professional to the extent such disclosure is required or authorized pursuant to section three hundred twenty-three of the emergency planning and community right-to-know act of nineteen hundred eighty-six (42 U.S.C. section 11001, et seq.).

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (b) amended L.L. 92/1993 § 4, eff. Dec. 1, 1993.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

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be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-710

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-710 Access to hazardous substance information.

(a) The commissioner shall upon request make available to emergency response personnel the information filed pursuant to section 24-706, the data compiled pursuant to section 24-707, and the risk management plan filed pursuant to section 24-718.

(b) The commissioner shall make available to the public, in such form and manner as may be prescribed by regulation, the information filed pursuant to section 24-706 and the data compiled pursuant to section 24-707, during normal working hours, at the location or locations designated by the commissioner. Within thirty days after the annual completion of the compilation of citywide facility inventory data pursuant to section 24-707 of this chapter, the commissioner shall publish a notice in the City Record that such information shall be available for inspection by the public at the location or locations specified in the notice.

(c) Any person may submit a written request to the commissioner for any information filed with the department pursuant to section 24-706 of this chapter with respect to a specific facility. The commissioner shall make the requested information available to the person making the request within ten business days after the receipt of the request.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (a) amended L.L. 92/1993 § 5, eff. Dec. 1, 1993.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-711

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-711 Labeling requirements.

Within thirty days after a facility inventory form is first required to be filed for a facility, all hazardous substances present at such facility shall be clearly marked with a label showing the chemical name and CAS identification number of the hazardous substance. The information set forth on the label shall be in accordance with a recognized hazardous substances labeling system, accepted by the commissioner. In the case of a substance protected under the "trade secrets" provision contained in section 24-709 of this chapter, the label should bear the specific code assigned by the commissioner for such substance.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of

certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

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NYC Administrative Code 24-712

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-712 Inspections of a facility.

(a) The department, upon providing prior notice, shall have the authority to inspect any facility during normal business hours. However, whenever there is a reason to believe that a facility is in violation of the requirements of this chapter, the department shall be authorized to inspect the facility without prior notice. Any reasonable party who refuses to allow an authorized employee or representative of the department to conduct an inspection of the facility after appropriate credentials are presented shall be in violation of this chapter and shall be subject to the penalties provided in subdivision c of section 24-713 of this chapter.

(b) Within twenty business days of receipt of a written complaint in such form as may be prescribed by the commissioner, alleging a violation of any of the provisions of this chapter, the department shall investigate such complaint and shall inform the complainant of the results of such investigation.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-713

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Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-713 Violations.

(a) Any person who knowingly or recklessly makes any false statement, representation or certification on a facility inventory form, risk management plan, or any other document filed with the department, or on any label required, pursuant to this chapter, shall, upon conviction, be subject to a fine of not more than two thousand dollars, or imprisonment of up to one year, or both. In addition to its application to any other person, the penalty provided for in this subdivision shall be deemed a special fine for a corporation within the meaning of section 80.10 of the penal law of the state of New York.

(b) Any person who violates the requirements of sections 24-706, 24-711 or 24-718 of this chapter shall be liable for a civil penalty, as follows: (1) for a first violation, in an amount of not less than five hundred nor more than five thousand dollars; (2) for a second violation, in an amount of not less than three thousand five hundred nor more than ten thousand dollars; and (3) for each subsequent violation, in an amount of not less than seven thousand five hundred nor more than twenty thousand dollars. For purposes of this section, the second and any subsequent violation shall only occur after notice of the first violation has been properly served and an opportunity to cure said violation has been provided to the violator, provided that such opportunity to cure shall not exceed thirty days. For purposes of this section, a second or subsequent violation shall occur where a person violates section 24-706, 24-711 or 24-718 of this chapter within five years of having been found to have violated this chapter. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board. In determining the civil penalty, the hearing officer or judge shall consider any evidence presented by the defendant showing a good faith effort to comply with relevant requirements of this chapter, the nature and seriousness of the defendant's violation of the chapter, whether the violation was voluntarily disclosed, previous violations, if any, of this

chapter and any other evidence found to be relevant.

(c) Any person who without justification refuses to allow an inspection of a facility pursuant to section 24-712 of this chapter shall be subject to a civil penalty, returnable before the environmental control board or in civil court in the name of the commissioner, in an amount not to exceed twenty thousand dollars.

HISTORICAL NOTE

Section amended L.L. 82/2003 § 1, eff. Feb. 20, 2004.

Section added L.L. 26/1988 § 6

Subd. (a) amended L.L. 92/1993 § 6, eff. Dec. 1, 1993.

Subd. (b) amended L.L. 92/1993 § 7, eff. Dec. 1, 1993.

Subd. (b) amended L.L. 52/1993 § 1, eff. Sept. 28, 1993.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-714

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-714 Private right of action.

(a) Except as provided in subdivision (c) of this section, any person may commence an action in a court of competent jurisdiction on his or her own behalf against a responsible party of a facility for failure to file any information required to be filed with the department or fire department pursuant to section 24-706 of this chapter. Such action shall be brought in the county in which the alleged violation occurred or where the complainant resides. The court may impose the civil penalty provided for violation of this chapter.

(b) No action may be commenced under subdivision (a) of this section prior to sixty days after the plaintiff has given notice of the alleged violation to the commissioner and the alleged violator. Notice required under this subdivision shall be given in such manner as may be prescribed by the commissioner.

(c) No action may be commenced under subdivision (a) if the commissioner has commenced and is diligently pursuing an administrative or civil action concerning the facility which would be the subject of such action to enforce the reporting requirements of this chapter or to impose any civil penalty for violation of such reporting requirements.

(d) The court, in issuing any final order in any section brought pursuant to this section, may award costs of litigation, including reasonable attorney's and expert witness fees, to the prevailing party whenever the court determines such an award is appropriate.

(e) In any action brought pursuant to this section, the commissioner, may intervene as a matter of right.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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Administrative Code of the City of New York

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NYC Administrative Code 24-715

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-715 Annual report.

(a) The commissioner shall annually review the facility inventory forms and material safety data sheets filed with the department pursuant to this chapter and citywide facility inventory data. Upon making this annual review, the commissioner shall forward a report to the mayor and the council no later than October first of each year. Such annual report shall, at a minimum, provide the following information: the number of facilities for which facility inventory forms have been filed pursuant to this chapter; the number of complaints received; the number of civilian complaints filed; the number of inspections performed pursuant to this chapter; the number of notices of violation issued pursuant to this chapter and chapter six of this title; the number of orders issued by the commissioner pursuant to subdivision a of section 24-608 of this title and the nature of such orders; the number of civil actions and administrative proceedings commenced under this chapter and chapter six of this title and the dispositions thereof; the number of incidents in which the department participated in response measures undertaken in connection with hazardous substances; the number of releases of hazardous substances reported to, or otherwise documented by the department; the number of emergency response personnel in each city agency which performs functions in connection with emergencies involving hazardous substances; and the average response time and cost of each member of the city's emergency response personnel.

(b) By March first, nineteen hundred ninety the commissioner shall report to the Council the status of the development of the threshold reporting quantities for hazardous substances that will become effective on March first, nineteen hundred ninety-one.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (a) amended L.L. 76/2003 § 1, eff. Dec. 22, 2003.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-716

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Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-716 Regulations.

The commissioner shall have the power to promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-717

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Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-717 Hazardous substance advisory board.

(a) There is hereby created a "hazardous substance advisory board" hereinafter referred to as the board. Such board shall consist of seven members who shall be appointed within ninety days from the enactment of this chapter.

(b) The board shall consist of the commissioner, who shall serve as the board's chairman, plus four members to be appointed by the mayor and four to be appointed by the council. Each member shall hold office for a three year term or until such time as the board shall cease to exist or until such member shall resign or is removed from office for good cause shown. Each member appointed shall have a working knowledge of emergency response procedures or in managing hazardous substances.

(c) Any vacancy on the board shall be filled by appointment pursuant to subdivision b of this section.

(d) The members of the board shall serve without compensation for their services as board members except that each shall be allowed reimbursement for the necessary and actual expenses which such member shall incur in the performance of his or her duties under this section.

(e) The board shall be authorized and responsible to: (1) serve as a working forum for the exchange of views, concerns, ideas, information and recommendations relating to the management of hazardous substances and the planning of emergency response measures; (2) review existing hazardous substances emergency response training programs; (3) review existing requirements for handling extremely hazardous substances emergency response situations as established under the emergency planning and community right-to-know act of nineteen hundred eighty-six; (4) review the annual summary of incident reports as required pursuant to section 24-715 of this chapter; and (5) assist the

commissioner in the development, review and revision of the hazardous substance list and corresponding threshold levels where appro- priate.

(f) The board shall meet at least four times per year at least once every quarter, keep a record of its deliberations and determine its own rules of procedure.

HISTORICAL NOTE

Section added L.L. 26/1988 § 6

Subd. (b) amended L.L. 24/1989 § 1

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

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NYC Administrative Code 24-718

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 7*15 COMMUNITY RIGHT-TO-KNOW LAW

§ 24-718 Risk management plan.

(a) On or before March first of each year beginning in nineteen hundred ninety-five, a responsible party of a facility where an extremely hazardous substance or a regulated toxic substance is present in an amount that equals or exceeds the threshold planning quantities established by the United States environmental protection agency in regulations promulgated pursuant to applicable law, shall file with the commissioner a risk management plan in accordance with the provisions of this section. Where a substance is classified as both an extremely hazardous substance and a regulated toxic substance and different threshold planning quantities have been established, the lower threshold planning quantity shall apply in determining whether such substance is present at a facility in an amount that equals or exceeds the threshold planning quantities.

(b) Review of risk management plans. (1) Within thirty days after receipt of a risk management plan, the commissioner shall determine whether such plan is complete. If the commissioner determines that the plan is incomplete, then he or she shall notify the responsible party that the plan is incomplete and identify in what respect the plan is incomplete. Within fifteen days after such notification, the responsible party shall file a revised plan consistent with the commissioner's notification. Within fifteen days after receipt of such revised plan, the commissioner shall determine whether the revised plan is complete.

(2) Within ninety days after the commissioner's determination that the responsible party has filed a complete plan, the commissioner shall approve or make modifications to such plan and shall notify the responsible party filing such plan in writing of his or her approval or modifications. The commissioner shall, within a reasonable period of time prior to approving or making modifications to such plan, submit such plan to the commissioner of the fire department and the commissioner of the fire department may recommend modifications to such plan to the commissioner.

(3) If the commissioner makes modifications to the responsible party's risk management plan, the responsible party shall incorporate such modifications into its risk management plan, provided, however, that the responsible party may, within forty-five days after receipt of such modifications, submit alternative modifications to the commissioner or explain why the commissioner's modifications are not necessary. The commissioner shall within forty-five days review the alternative modifications or explanation and shall: (i) require the responsible party to incorporate, by a date certain not to exceed forty-five days, either the commissioner's modifications, the alternative modifications or a combination of such modifications into its risk management plan, (ii) approve the unmodified plan or (iii) disapprove the plan.

(4) The commissioner shall provide a copy of each approved risk management plan to the emergency response agencies and to other governmental entities that may request an approved plan.

(c) On or before July first, nineteen hundred ninety-four, the commissioner, in consultation with the emergency response agencies, shall by rule establish the contents of a risk management plan, which shall be designed to prevent the accidental release and to minimize the consequences of any such release of any extremely hazardous or regulated toxic substance. The plan shall include but need not be limited to: (1) a site plan; (2) a safety review of design for new and existing equipment and processes; (3) an emergency response program, including an emergency response plan, emergency response training, and emergency response exercises; (4) standard operating procedures; (5) a preventive maintenance program for equipment; (6) a training program for equipment operators, including duration and type of training, and retraining; (7) accident investigation procedures; and (8) a risk assessment program, including a hazard analysis and a consideration of the use of alternate equipment and alternate substances.

(d) Preparation of risk management plan. The risk management plan shall be prepared by one or more of the following persons: an industrial hygientist certified by the American Board of Industrial Hygienists, a professional engineer licensed pursuant to section 7206 of the New York state education law, a safety professional certified by the Board of Certified Safety Professionals, or other qualified person authorized by rule of the commissioner. A plan submitted pursuant to this section shall contain proof satisfactory to the commissioner of the qualifications of the person who prepared such plan.

(e) The risk management plan shall be made available to department personnel at the time of an inspection of a facility for which a plan is required pursuant to subdivision (a) of this section.

(f) On or before November first, nineteen hundred ninety-four, the commissioner, in consultation with emergency response agencies, shall make reasonable efforts to provide information to responsible parties regarding the requirements of this section and the rules promulgated hereunder.

HISTORICAL NOTE

Section added L.L. 92/1993 § 8, eff. Dec. 1, 1993. (See Note 1)

NOTE

1. Provisions of L.L. 92/1993 § 1:

Section 1. Legislative findings. The council finds that a substance listed by the United States environmental protection agency as "extremely hazardous" pursuant to 42 U.S.C. section 11002(a) of the emergency planning and community right-to-know act or as a "regulated toxic substance" pursuant to 42 U.S.C. section 7412 (r) of the clean air act, may pose a greater risk to human health and the environment than other hazardous substances.

The council further finds that an entity defined as a "responsible party" pursuant to the city's community right-to-know law, local law number 26 for the year 1988, as amended, has an obligation to identify hazards which may result from releases of hazardous substances using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of releases that do

occur.

To limit the potential for exposure to extremely hazardous substances and regulated toxic substances, and to minimize the adverse effects should exposure occur through fire, explosion, spill or other accidental release, the council determines that it is appropriate for facilities storing such substances to prepare a risk management plan that will limit the potential for release of such substances and provide for a contingency plan for responding to an accidental release through fire, explosion, spill or other accidental release.

FOOTNOTES

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[Footnote 15]: * (Chapter added L.L. 26/1988 § 6, see note below.)

NOTEProvisions of L.L. 26/1988

Section one. Legislative Findings. The Council finds that the storage, processing, handling and use of certain hazardous substances may pose a significant risk to human health and the environment in the event of an accidental or threatened release of such substance. Recent tragedies around the world relating to the accidental release of certain hazardous substances clearly indicate the need to have in place an effective plan for dealing with such emergencies.

The Council has determined that there is a need to protect the environment, health and safety of community members, emergency response personnel, the general public and private and public property against exposure to hazardous substances as a result of fire, spill or accidental release, whether actual or threatened, and to assist emergency response personnel in the mitigation of such fire, spill or accidental release from industrial, commercial or public facilities which handle these substances. Certain information, such as chemical names, amounts stored, characteristics of the substances, methods of safe treatment and potential health effects, should be provided to the department of environmental protection. This information is needed to facilitate planning for the prevention and control of fires, accidents and spills; to enable government inspectors to ensure compliance with other local environmental and public safety laws; and to permit public and private agencies to conduct diagnoses, screenings and health studies on behalf of community residents. Such information will be made available to the emergency response personnel of city agencies, other relevant government agencies, medical care providers, regulatory agencies, community boards and other interested persons.

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NYC Administrative Code 24-801

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 8 NEW YORK CITY CLIMATE PROTECTION ACT*38

§ 24-801 Short title.

This chapter shall be known and may be cited as the "New York City Climate Protection Act".

HISTORICAL NOTE

Section repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. [See Chapter 8 footnote]

Section added L.L. 55/2007 § 1, eff. Dec. 5, 2007.

FOOTNOTES

38

[Footnote 38]: * Chapter 8 repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. Chapter 8 added L.L. 55/2007 § 1, eff. Dec. 5, 2007. Note: Provisions of L.L. 22/2008:

§ 3. If any provision of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this law, which

remaining provisions shall continue in full force and effect.

§ 4. This local law shall take effect immediately and shall be deemed to have been in full force and effect as of December 5, 2007.

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NYC Administrative Code 24-802

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 8 NEW YORK CITY CLIMATE PROTECTION ACT*38

§ 24-802 Definitions.

For purposes of this chapter only, the following terms shall have the following meanings:

a. "Base year for citywide emissions" means calendar year 2005.

b. "Base year for city government emissions" means fiscal year 2006.

c. "Carbon dioxide equivalent" means the metric measure used to compare the emissions of various greenhouse gases based upon their global warming potential as defined in the Intergovernmental Panel on Climate Change Second Assessment Report (1996).

d. "City government emissions" means greenhouse gas emissions attributable to city government operations.

e. "City government operations" means the operations of the city of New York described in the Government Inventory Methodology and the Government Inventory Results sections of the Inventory of New York City Greenhouse Gas Emissions, dated April 2007.

f. "Citywide emissions" means greenhouse gas emissions citywide.

g. "Greenhouse gas emissions" means the emission of carbon dioxide, methane and nitrous oxide.

h. "Office" means such office or agency as the mayor shall designate to implement this chapter.

i. "PlaNYC" means the sustainability plan issued by the city of New York on April 22, 2007, entitled "PlaNYC 2030: A Greener, Greater New York", as such plan may be revised from time to time.

HISTORICAL NOTE

Section repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. [See

Chapter 8 footnote]

Section added L.L. 55/2007 § 1, eff. Dec. 5, 2007.

FOOTNOTES

38

[Footnote 38]: * Chapter 8 repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. Chapter 8 added L.L. 55/2007 § 1, eff. Dec. 5, 2007. Note: Provisions of L.L. 22/2008:

§ 3. If any provision of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this law, which remaining provisions shall continue in full force and effect.

§ 4. This local law shall take effect immediately and shall be deemed to have been in full force and effect as of December 5, 2007.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-803

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 8 NEW YORK CITY CLIMATE PROTECTION ACT*38

§ 24-803 Reduction of greenhouse gas emissions that contribute to global warming.

a. (1) Reduction of emissions citywide. There shall be, at minimum, a thirty percent reduction in citywide emissions by calendar year 2030, relative to such emissions for the base year for citywide emissions.

(2) The emissions reduction required by paragraph one of this subdivision shall be achieved through the applicable policies, programs and actions included in PlaNYC, and any additional policies, programs and actions to reduce greenhouse gas emissions that contribute to global warming. If the office determines that such emissions reduction is not feasible despite the best efforts of city government, such office shall report such findings and make recommendations with respect to policies, programs and actions that may be undertaken to achieve such reductions.

b. Reduction of emissions from city government operations. (1) There shall be, at minimum, a thirty percent reduction in city government emissions by calendar year 2017, relative to such emissions for the base year for city government emissions.

(2) The emissions reduction required by paragraph one of this subdivision shall be achieved through the applicable policies, programs and actions included in PlaNYC, and any additional policies, programs and actions to reduce greenhouse gas emissions that contribute to global warming. If the office determines that such emissions reduction is not feasible despite the best efforts of city government, such office shall report such findings and make recommendations with respect to policies, programs and actions that may be undertaken to achieve such reductions.

c. Carbon dioxide equivalent emission inventories. (1) No later than September 17, 2008, and no later than every September 17 thereafter, the office shall complete and post on its website an inventory and analysis of citywide

emissions measured in carbon dioxide equivalent for the previous calendar year, and shall calculate the percentage change in citywide emissions measured in carbon dioxide equivalent for such calendar year, relative to such emissions for the base year for citywide emissions.

(2) No later than September 17, 2008, and no later than every September 17 thereafter, the office shall complete and post on its website an inventory and analysis of city government emissions measured in carbon dioxide equivalent for the fiscal year ending in the previous calendar year, and shall calculate the percentage change in city government emissions measured in carbon dioxide equivalent for such calendar year, relative to such emissions for the base year for city government emissions.

d. Voluntary global warming emissions reduction program. The effort to reduce citywide emissions set forth in subdivision a of this section shall include, but not be limited to, voluntary programs developed and implemented no later than March 1, 2009, that encourage private entities operating within the city of New York to commit to reducing their own greenhouse gas emissions measured in carbon dioxide equivalent to help facilitate the citywide emissions reduction effort.

HISTORICAL NOTE

Section repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. [See

Chapter 8 footnote]

Section added L.L. 55/2007 § 1, eff. Dec. 5, 2007.

FOOTNOTES

38

[Footnote 38]: * Chapter 8 repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. Chapter 8 added L.L. 55/2007 § 1, eff. Dec. 5, 2007. Note: Provisions of L.L. 22/2008:

§ 3. If any provision of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this law, which remaining provisions shall continue in full force and effect.

§ 4. This local law shall take effect immediately and shall be deemed to have been in full force and effect as of December 5, 2007.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-804

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 8 NEW YORK CITY CLIMATE PROTECTION ACT*38

§ 24-804 Education and outreach.

No later than July 1, 2009, the office shall develop and implement programs for public education and outreach regarding global warming and the reduction of greenhouse gas emissions by residents, businesses, public and private elementary and secondary schools, and other entities within the city of New York. Such program shall include, but not be limited to, awareness campaigns tailored to specific sectors of the public, through which the office shall develop and disseminate information regarding global warming, including its potential impacts on the city of New York, and best practices to reduce energy consumption and greenhouse gas emissions.

HISTORICAL NOTE

Section repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. [See Chapter 8 footnote]

Section added L.L. 55/2007 § 1, eff. Dec. 5, 2007.

FOOTNOTES

38

[Footnote 38]: * Chapter 8 repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. Chapter 8 added

L.L. 55/2007 § 1, eff. Dec. 5, 2007. Note: Provisions of L.L. 22/2008:

§ 3. If any provision of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this law, which remaining provisions shall continue in full force and effect.

§ 4. This local law shall take effect immediately and shall be deemed to have been in full force and effect as of December 5, 2007.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 24-805

Administrative Code of the City of New York

Title 24 Environmental Protection and Utilities

CHAPTER 8 NEW YORK CITY CLIMATE PROTECTION ACT*38

§ 24-805 Annual report.

No later than September 17, 2008, and no later than every September 17 thereafter, the office shall submit to the mayor, the speaker of the council, the public advocate and the comptroller and post on its website a report regarding actions taken by the office pursuant to the provisions of this chapter. Such report shall include, but not be limited to:

a. changes in citywide emissions measured in carbon dioxide equivalent achieved for the previous calendar year, relative to such emissions for the base year for citywide emissions;

b. changes in city government emissions measured in carbon dioxide equivalent achieved for the fiscal year ending in the previous calendar year, relative to such emissions for the base year for city government emissions disaggregated according to city agency;

c. a description of the programs developed and implemented in accordance with subdivision d of section 24-803 of this chapter and a list of the entities participating in such programs of which the office is aware; and

d. a description of the education and outreach activities developed and implemented pursuant to section 24-804 of this chapter.

HISTORICAL NOTE

Section repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. [See

Chapter 8 footnote]

Section added L.L. 55/2007 § 1, eff. Dec. 5, 2007.

FOOTNOTES

38

[Footnote 38]: * Chapter 8 repealed and added L.L. 22/2008 §§ 1, 2, eff. Dec. 5, 2007. Chapter 8 added L.L. 55/2007 § 1, eff. Dec. 5, 2007. Note: Provisions of L.L. 22/2008:

§ 3. If any provision of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this law, which remaining provisions shall continue in full force and effect.

§ 4. This local law shall take effect immediately and shall be deemed to have been in full force and effect as of December 5, 2007.

NYC Administrative Code 25-101

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-101 City map to be conclusive.

The city map is to be deemed final and conclusive with respect to the location, width and grades of the streets shown thereon, so far as such location, width and grades have been duly adopted.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198a-1.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Legally adopted map establishing the legal grade of the street upon which petitioner's building abutted, was conclusive with respect to the location, width and grades of the streets shown thereon.-Mellilo v. Kracke, 261 App. Div. 631, 26 N.Y.S. 2d 743 [1941].

¶ 2. The owners of real property who constructed their improvements in disregard of the legal grade established by a duly filed map, could not obtain damages allegedly resulting from a change of grade.-Mellilo v. Kracke, 261 App. Div. 631, 26 N.Y.S. 2d 743 [1941].

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-102

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-102 City map; what to include.

There shall be located and laid out on the city map all parks, playgrounds, streets, courtyards abutting streets, bridges, tunnels and approaches to bridges and tunnels, and improvements of navigation in accordance with bulkhead and pierhead lines established pursuant to section seven hundred five of the charter. The width and grades of all streets so located and laid out shall be indicated thereon.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198a-2.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Map which showed the grade upon each street, not only at the intersection but also by numerals in many instances within the block where the grade was other than a straight line between the grades at curb intersection, and which clearly and unmistakably set forth in large vertical red figures upon the map the grades of all streets, including those upon which petitioner's property abutted, and which contained the explanatory legend in the corner of the map that the large red figures represented the grades thereby established, **held** sufficiently to apprise petitioners of the legal grade of the street upon which their property abutted.-Mellilo v. Kracke, 261 App. Div. 631, 26 N.Y.S. 2d 743 [1941].

¶ 2. Administrative Code § 198a-2.0 **held** not applicable to proceedings to acquire property for the Owl's Head Sewage Treatment Plant, where the property acquired did not include any parts of any street or park.-Timmerman v. City of N.Y., 117 (149) N.Y.L.J. (6-27-47) 2524, Col. 1 F.

¶ 3. An injunction against narrowing a roadbed of street with an increase in the sidewalk area was denied even though city may not have complied with statutory procedure under this section for so doing where it had been customary to follow another procedure and where granting of the relief sought would require destruction of the almost completed project costing some $84,000 and an additional expenditure of money to restore the street to its original condition after which the city could then take the proper preliminary procedure and obtain the required approval.-Corbett v. Sidamon-Eristoff, 165 (116) N.Y.L.J. (6-17-71) 16 Col. 7 F.

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-102.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-102.1 City map; street and park names.

a. Unless the local law specifically provides otherwise, any local law naming a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that does not bear a name indicated on the city map shall not be construed to require the addition of such name on the city map; provided, however, that the name given by such local law shall be posted on a sign placed at the location of such street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map.

b. Unless the local law specifically provides otherwise, any local law changing the name of a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that bears a name indicated on the city map shall not be construed to require a change in such name as it is indicated on the city map; provided, however, that in the case of a local law changing the name of a street or portion thereof, the name added by such local law shall be posted on a sign placed adjacent to or near a sign bearing the name of such street or portion thereof indicated on the city map.

c. The department of transportation may establish different colors for signs bearing a street name not officially indicated on the city map and signs bearing a street name officially indicated on the city map, and may provide for the replacement of any sign bearing a dual name by two separate signs of such color as the department shall determine.

HISTORICAL NOTE

Section added L.L. 28/1992 § 1, eff. May 11, 1992.

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-103

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-103 Borough presidents' assistance in completing city map.

The city planning commission, with the approval of the mayor, may at any time require the president of any borough to make recommendations for the completion of the city map of the whole or of a part of the territory for which the city map shall not at such time have been finally established and adopted and to report the same to the commission within a fixed and specified time.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198b-1.0 added chap 929/1937 § 1

Amended LL 54/1977 § 12

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-104

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-104 Official surveying stations.

The latitudes and longitudes determined in conformity with the method used by the United States coast and geodetic survey for primary stations; the rectangular spherical coordinates for secondary stations; and the rectangular co-ordinates referring to a given fixed central meridian, or assumed meridian, for all stations, shall continue to be official and binding upon all officers making any map or plan relating to any borough, or part thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198b-2.0 added chap 929/1937 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-105

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-105 Grades established by user.

Whenever any street in the city shall have been used as such for upward of twenty years without having the grade thereof established by law, the level or surface of such street as so used shall be deemed to be and to have been the grade thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198b-3.0 added chap 929/1937 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-106

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-106 Public utility corporations; filing of maps of real property.

Every public utility corporation, within ninety days after its acquisition of any real property within the city, shall file in the office of the president of the borough in which such property is situated, a map or survey drawn to a scale and accurately indicating the location and boundaries of such property with reference to the streets, avenues, bridges, tunnels, bulkhead or pierhead lines, parks or other public places shown on the city map. Every such corporation shall within the same period of time file a copy of each such map or survey in the office of the department of city planning and in the office of the commissioner of transportation. For a failure to file any such map or survey or copy thereof within the period required therefor such public utility corporation shall be liable to the city in a penalty of ten dollars for each and every day during which such map or survey or copy thereof has not been filed, as hereinabove required, and an action may be brought for the recovery thereof in the name of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 198b-4.0 added chap 929/1937 § 1

Amended LL 50/1942 § 14

Amended chap 100/1963 § 181

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-107

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-107 Failure to include street upon map; effect of.

The failure to include any street upon the city map shall not have the effect of closing such street.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 199b-1.0 added chap 929/1937 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-108

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-108 Map changes affecting certain cemetery lands.

Notwithstanding any provisions of the not-for-profit corporation law, or of any other law, general or special, that portion of the city map relating to Interborough Parkway shall not be altered or amended so as to affect the lands of any cemetery association except by and with the consent of the trustees of any such cemetery association the lands of which would be affected, and of the board of estimate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 199b-2.0 added chap 929/1937 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-109

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-109 Streets not to be opened through grounds of certain institutions.

a. It shall be unlawful to open any streets through the grounds belonging to the corporation of Fordham University in its actual occupation of the area generally bounded by Bronx Park on the north and east, Fordham Road on the south, and the tracks of the Harlem Division of the New York Central and Hudson River Railroad Company on the west.

b. It shall also be unlawful to open any streets through or upon any part of the land and premises owned by New York University, extending from Sedgwick avenue to Aqueduct avenue, and lying immediately south of and adjacent to One hundred eighty-first street, sometimes called University avenue, so long as the same shall be owned or occupied for educational purposes by such university.

c. It shall be unlawful to open any streets through the grounds of Columbia University, from One hundred sixteenth street to One hundred twentieth street, between Amsterdam avenue and Broadway, so long as such grounds are owned or occupied for educational purposes.

d. It shall be unlawful to open any streets through or upon any part of the land and premises owned by Manhattan College, within the territory bounded by West 244th street and its easterly prolongation, Post road and Spuyten Duyvil parkway, so long as the same shall be owned or occupied for educational purposes.

e. It shall be unlawful to open any streets through or upon any part of the land and premises owned by the college of Mount Saint Vincent, without the territory bounded approximately by the northerly city line, Riverdale avenue, West 261st street, Netherland avenue, a line about thirteen hundred feet southerly of the city line and the tracks of the New York Central and Hudson River Railroad, so long as the same shall be owned or occupied for educational

purposes.

f. It shall be unlawful to open any streets through or upon any part of the land or premises owned by the college of Mount Saint Vincent, except West 261st street, between Riverdale avenue and the New York Central and Hudson River Railroad right-of-way and Palisade avenue south of West 261st street as they are now indicated upon the city map, or as they may in the future be changed in width or alignment, within the territory bounded approximately by the northerly city line, Riverdale avenue, West 261st street, Palisade avenue, a line about 1,400 feet southerly of the city line and the tracks of the New York Central and Hudson River Railroad, so long as they shall be owned or occupied for educational purposes.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 199b-3.0 added chap 929/1937 § 1

Sub d added LL 62/1952 § 1

Sub e added LL 63/1952 § 1

Sub e added LL 60/1953 § 1

Sub f relettered chap 100/1963 § 183

(formerly sub e added LL 60/1953 § 1)

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-110

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-110 City planning commission to regulate the height and bulk of buildings, areas of yards, courts and open spaces and density of population.

a. The city planning commission, subject to the provisions of sections one hundred ninety-seven-c, two hundred and two hundred one of the charter, where applicable, shall have power to regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces and to regulate density of population. The commission, subject to the same limitations, may divide the city into districts of such number, shape and area as it may deem best suited to carry out such purposes.

b. The regulations as to height and bulk of buildings, the area of yards, courts and other open spaces and density of population shall be uniform for each class of buildings throughout each district. The regulation in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and welfare, including, so far as conditions may permit, provisions for adequate light, air and convenience of access.

c. The commission shall pay reasonable regard to the character of buildings erected in each district, the value of the land and the use to which it may be put, to the end that such regulations may promote public health, safety and welfare and the most desirable use for which the land of each district may be adapted and may tend to conserve the value of the buildings and may enhance the value of land throughout the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 200-1.0 added chap 929/1937 § 1

Amended chap 652/1959 § 2

Amended LL 54/1977 § 13

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-111

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-111 City planning commission to regulate location of trades and industries and of buildings designed for specific uses.

a. The city planning commission, subject to the provisions of sections one hundred ninety-seven-c, two hundred and two hundred one of the charter, where applicable, may regulate and restrict the location of trades and industries and the location of buildings designed for specific uses, and may divide the city into districts of such number, shape and area as it may deem best suited to carry out such purposes.

b. For each such district, regulations may be imposed designating the trades and industries that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected or altered. Such regulations shall be designed to promote the public health, safety and general welfare.

c. The commission shall give reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values, and the direction of building development in accord with a well-considered plan.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 200-2.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The Planning Commission has the power to regulate the uses of buildings after their erection even though the building is not used for trade or industry. Thus, a resolution was valid which required that doctor's offices in a multiple dwelling in a residence district must be on the street floor or the floor immediately above if there is access to such offices from other than a public hall. An information charging a landlord with violating such resolution by leasing a 12th-floor apartment to a doctor was proper.-People v. 960 Park Avenue Corp., 286 App. Div. 493, 145 N.Y.S. 2d 190 [1955], aff'd, 1 N.Y. 2d 771, 153 N.Y.S. 2d 46 [1956].

¶ 2. The fundamental difference between this section and § 201 is that the Commission under § 201 must act on all formal applications for zoning between May 5 and June 5 of each year, and the application must be filed during the preceding month of April of that year. Under this section, there are no limitations as to time. It is not necessary, however, under this section that the idea or suggestion originate with the Commission and a resolution adopted on an informal application made at a time not specified in § 201 was proper and valid.-Fieldston Garden Apartments, Inc. v. City of New York, 7 Misc. 2d 147, 145 N.Y.S. 2d 907 [1955], aff'd, 3 A.D. 2d 493, 145 N.Y.S. 2d 402 [1957].

¶ 3. The power to regulate the density of population has not been delegated to the Planning Commission and since the power is in derogation of the common law, its inclusion may not be applied. Thus, the Planning Commission was not vested with power to rezone on the basis of density of population so as to restrict a certain area to single family dwellings.-Matter of Hall (Leonard), 174 Misc. 454, 21 N.Y.S. 2d 43 [1940].

¶ 4. The Commissioner of Licenses rejected the application of a junk dealer at a particular location because of the harm the junk business might work on the residential area involved. **Held:** in the light of the history and purpose of the regulation of junk dealers, it is obvious that a license is required in order to eliminate or at least curtail the readily available market for stolen property which this business affords. The clear implication, therefore, is that delegated discretion was intended, in this instance, to be limited to this specific subject, i.e., to the prevention of the distribution of stolen goods. Therefore, the refusal of the Commissioner to grant the license because of the mere objections of the residents (as to possible adverse effect upon the area) was arbitrary and in excess of authority conferred.-Matter of Bologno, 7 N.Y. 2d 155, 196 N.Y.S. 2d 90, 164 N.E. 2d 389 [1959].

¶ 5. The City Planning Commission is the agency charged with deciding whether a particular enterprise is suited to the location involved and the Department of Consumer Affairs had no appropriate statutory authority to require petitioner to limit its hours of operation, increase its security personnel, and erect an enclosure as a condition for renewal of petitioner's license to conduct an amusement arcade business.-While You Wait Photo Corp. v. Dept. of Consumer Affairs of City of N.Y., 87 App. Div. 2d 46 [1982].

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-112

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-112 Prohibition of cemeteries in Queens.

a. No person, association or corporation shall take by deed, devise or otherwise any land in the county of Queens for cemetery purposes, nor set apart or use any ground for cemetery purposes in such county. Existing religious corporations, cemetery associations and corporations, however, shall have the right to use for cemetery purposes, land lawfully taken by recorded deed, or devise and set apart or used for cemetery purposes or for the purposes of the convenient transaction of their general business, prior to July seventeenth, nineteen hundred forty-seven.

b. The provisions of subdivision a of this section shall not in any manner prevent an incorporated religious society organized under the laws of the state of New York prior to the year eighteen hundred twenty-five now owning cemetery land in Queens county from acquiring and using land of not more than ten acres contiguous to said cemetery land as and when said additional land in its ownership and use for cemetery purposes has been approved by the city council.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 200-3.0 added LL 56/1947 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-113

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 1 CITY PLANNING*1

§ 25-113 Filing of subdivision maps and recording of deeds of subdivision property.

a. Every map referred to in section two hundred two of the charter shall be prepared, approved and certified and shall be filed as follows: one copy thereof in the office in which conveyances of real estate are required to be recorded in the county in which the land shown thereon is situated; one copy thereof in the office of the corporation counsel; one copy thereof in the office of the president of the borough in which the land shown on the map is situated; one copy thereof in the office of the secretary of the board of estimate; one copy thereof in the office of the department of city planning; one copy thereof in the office of the city clerk; and, one copy thereof in the office of the department of buildings for the county in which the land shown thereon is situated.

b. The register or county clerk, as the case may be, shall refuse:

1. To receive for filing any such subdivision map unless the commission or the department of buildings has certified that the subdivision does not result in the violation of any applicable zoning laws.

2. To accept for recording any deed or other instrument affecting real property which has a map attached thereto or made a part thereof, unless it shall have endorsed thereon the certification of the secretary of the board of estimate to the effect that the same has been approved pursuant to section two hundred two of the charter and unless the commissioner of the department of buildings has certified that such subdivision does not result in the violation of any applicable zoning laws.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 202-1.0 added chap 929/1937 § 1

Sub b amended LL 50/1942 § 15

Sub a amended chap 100/1963 § 184

Amended LL 9/1981 § 1

FOOTNOTES

1

[Footnote 1]: * Title amended chap 100/1963 § 180

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-201

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-201 Temporary vacancies; filling of.

In the event of the absence or illness of an appointed member, the mayor shall have power to appoint another person to act in his or her place at any meeting or meetings during such period of absence or illness.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 661d-1.0 added chap 929/1937 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-202

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-202 Fees.

The fees hereinbelow set forth shall be charged for the following applications, appeals, filings and reviews:

[See tabular material in printed version]

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 45/1988 § 1

Subd. 1 amended L.L. 38/2004 § 1, eff. July 12, 2004

Subd. 1 renumbered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 2) repealed L.L. 59/1991 § 1, eff. July 1, 1991

Subd. 2 amended L.L. 38/2004 § 1, eff. July 12, 2004

Subd. 2 relettered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 3)

Subd. 3 amended L.L. 38/2004 § 1, eff. July 12, 2004

Subd. 3 relettered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 4)

Subd. 4 amended L.L. 38/2004 § 1, eff. July 12, 2004

Subd. 4 relettered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 5)

Subd. 5 amended L.L. 38/2004 § 1, eff. July 12, 2004

Subd. 5 relettered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 6)

Subd. 6 relettered and amended L.L. 59/1991 § 1, eff. July 1, 1991

(formerly Subd. 7)

DERIVATION

Formerly § 666-1.0 added LL 94/1957 § 8

Amended LL 72/1958 § 1

Amended LL 34/1962 § 1

Sub 3 amd LL 70/1962 § 5

Renumbered chap 100/1963 § 508

(formerly § 669-1.0)

Sub 2 par f added LL 77/1963 § 1

Repealed and added LL 44/1969 § 1

Amended LL 38/1979 § 1

Amended LL 1943/1980 § 1

Amended LL 74/1981 § 1

Sub 6 renumbered LL 75/1981 § 1

(formerly sub 5)

Sub 5 added LL 75/1981 § 1

Repealed and added LL 71/1982 § 1

Amended LL 83/1984 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-203

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-203 Board's orders; violation; penalty.

Any person who shall knowingly violate or fail to comply with any lawful order or requirement of the board made under the authority of sections six hundred sixty-six and six hundred sixty-eight of the charter shall be guilty of a misdemeanor; and in addition thereto, and in addition to all other liabilities and penalties imposed by law, shall forfeit and pay for each such violation and non-compliance respectively, a penalty in the sum of not more than two hundred and fifty dollars, as may be fixed by the court awarding judgment therefor. An action may be brought for the recovery of any such penalty or penalties in the New York city civil court or any other court of record in the city, in the name of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 49/1991 § 13, eff. July 1, 1991

DERIVATION

Formerly § 666(2)-1.0 added chap 929/1937 § 1

Amended chap 100/1963 § 506

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-204

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-204 Non-appealable orders.

The following are not appealable to the board:

1. An order requiring an unsafe building, staging or structure to be made safe;

2. An order, requirement, decision or determination made with respect to or under the provisions of section 26-127 of the code and article eight of subchapter three of chapter one of title twenty-six of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended L.L. 49/1991 §14, eff. July 1, 1991 amended L.L. 37/1986 § 7

DERIVATION

Formerly § 666(6)-1.0 added chap 929/1937 § 1

Amended LL 112/1955 § 16

Amended LL 113/1955 § 9

Amended LL 24/1958 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-205

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-205 Multiple dwelling law not to be varied.

The board shall not vary or modify the multiple dwelling law nor any order, regulation or ruling of the commissioner of housing preservation and development, except as provided in section three hundred ten of the multiple dwelling law, and except that any such order, regulation or ruling issued under the provisions of chapter two of title twenty-seven of the code may be varied or modified by the board to the extent permitted by such chapter in the manner and subject to the conditions therein specified. This section shall not deprive the board of any of its powers of review on appeal.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 666(6)-2.0 added chap 929/1937 § 1

Amended LL 113/1955 § 10

Amended chap 100/1963 § 507

CASE NOTES FROM FORMER SECTION

¶ 1. Where two buildings under a common ownership were converted in 1923 into a single dwelling, and ever

since were occupied as such with one certificate of occupancy, and since 1933 were classified as a "heretofore erected Class A multiple dwelling," they could not again be transformed into two buildings by a change of the one common ownership into two separate ownerships, particularly since permitting the alteration of one portion of the dwelling would destroy the use to which the other portion was being applied, or compel the owner to comply with all the provisions of the Multiple Dwelling Law relating to buildings erected since 1929 (Admin. Code § 666(6)-2.0; Multiple Dwelling Law §§ 8, 9, 13)-In re 165 West 71st St., Inc. (Murdock), 109 (122) N.Y.L.J. (5-26-43) 2059, Col. 6 F.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-206

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-206 Decision on appeals; form of.

The decision on appeals shall be in writing and, so far as is practicable, shall be in the form of a general statement or resolution which shall be applicable to cases similar to or falling within the principles passed upon in such decision.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 668-1.0 added chap 929/1937 § 1

Renumbered chap 100/1963 § 505

(formerly § 663-1.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-207

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 2 BOARD OF STANDARDS AND APPEALS

§ 25-207 Certiorari.

a. Petition. Any person or persons, jointly or severally aggrieved by any decision of the board may present to the supreme court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court within thirty days after the filing of the decision in the office of the board.

b. Order of certiorari. Upon the presentation of such petition, the justice or court may allow an order of certiorari directed to the board to review such decision and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court or a justice thereof. Such order shall be returnable at a special term of the supreme court of the judicial district in which the property affected, or a portion thereof, is situated. The allowance of the order shall not stay proceedings upon the decision appealed from, but the court may on application, on notice to the board and on due cause shown, grant a restraining order.

c. Return to order. The board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such order. The return must concisely set forth such other facts as may be pertinent and material to show the grounds of the decisions appealed from and must be verified.

d. Proceedings upon return. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the

proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

e. Costs. Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

f. Preferences. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended L.L. 49/1991 § 15, eff. July 1, 1991.

DERIVATION

Formerly § 668e-1.0 added chap 929/1937 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Under Administrative Code § 668e-1.0, Special Term in considering the claim of illegality of an assailed ruling is limited to the return or to the return plus such additional proof as it deems necessary, and there is no necessity or authority for the filing of a return by the petitioner. C.P.A., Art. 78, which authorizes a reply, is inapplicable.-Davis Engineering Corp. v. Murdock, 115 (135) N.Y.L.J. (6-11-46) 2314, Col. 2 T.

¶ 2. Manufacturer of oil preheater **held** entitled to an order directing the Board of Standards and Appeals to take additional proof to determine whether disapproval of petitioner's oil preheater rested on reasonable grounds.-In re Davis Engineering Corp. (Murdock), 116 (2) N.Y.L.J. (7-2-46) 14, Col. 7 M.

¶ 2.1. Where it appeared that the Board of Standards and Appeals desired more evidence from an objectant but thereafter no notice was sent to the latter and the Board granted a variance without obtaining such further evidence, the determination was annulled and the matter remitted for further proof.-Matter of Jewish Community Center (Murdock), 145 (35) N.Y.L.J. (2-21-61) 16, Col. 4 M.

¶ 3. Upon the record presented, Court was not satisfied that the Board of Standards and Appeals properly exercised its discretion in granting the variance, since the reasons referred to in their return and the facts referred to in their determining resolution were referred to as "reasons urged by the applicant" and as what "the applicant contends", and not as findings of the Board, and were, in addition, largely conclusory in form.-In re American Seminary of Bible, Inc., 280 App. Div. 792, 112 N.Y.S. 2d 904 [1952], modifying, 104 N.Y.S. 2d 660 [1951].

¶ 3.1. A resolution granting a variance was improper where it was based upon statements and contentions of the applicant. The Board should have made definite findings of fact of its own.-In re Cutrano (Murdock), 138 (44) N.Y.L.J. (8-30-57) 6, Col. 6 T.

¶ 3.2. Where a determination of the Board of Standards and Appeals listed merely reasons for its action rather than findings of fact, the matter had to be remitted to the Board for the rendition of a determination in proper form.-M.H.C. Realty Corp. v. Murdock, 141 (80) N.Y.L.J. (4-27-59) 15, Col. 1 T.

¶ 3.3. A Board decision denying a variance was remanded where it listed only reasons for its action which did not constitute findings of fact.-In re Steelmaster, Inc. (Murdock), 140 (70) N.Y.L.J. (10-8-58) 14, Col. 3 F.

¶ 4. The Board of Standards and Appeals is not required to make findings in every case but only where it develops

that a return to a petition to review is necessary, in which case it is required to state the grounds upon which it is decided. These grounds, or findings, can be based on the evidence taken, or facts stated to be within knowledge of the Board, or conclusions based on facts in which judicial notice can be taken. There was no requirement that they be drawn by any particular persons, and it is sufficient if the verification of the return shows that they were in fact the bases upon which the court reached its decision.-In re 200 East End Avenue Corp. (Bd. of Standards and Appeals), 129 (38) N.Y.L.J. (2-26-53) 638, Col. 4 M.

¶ 5. In cases in which the Board of Zoning Appeals denies variances, as well as cases where it grants variances it must make findings to support its decision.-Bellnord Associated, Inc. v. Murdock, 132 (118) N.Y.L.J. (12-21-54) 9,Col. 6 F.

¶ 5.1. A determination of the Board of Standards and Appeals granting a zoning variance was annulled where it showed no basis for its conclusory findings.-In re Union League Club (Murdock), 141 (74) N.Y.L.J. (4-17-59) 12, Col. 3 M.

¶ 6. A reply was unauthorized in a certiorari proceeding to review determination of Board of Standards and Appeals instituted pursuant to Administrative Code § 668e-1.0.-In re Chapmaid Realty Corp., 119 (7) N.Y.L.J. (1-2-48) 124, Col. 7 T. (6) In view of provision in § 688 of the charter that any decision of the Board might be reviewed by certiorari as provided by law, and provisions of Administrative Code § 668e-1.0, which provides for a petition and return, the provisions of C.P.A. Art. 78 were inapplicable, and petitioner's reply would therefore be struck out as unauthorized.-Aisloff v. Murdock, 81 N.Y.S. 2d 872 [1948].

¶ 7. Where referee was appointed solely to determine whether action of Board of Standards and Appeals in disapproving petitioning manufacturer's appliances was arbitrary, and the referee had found that it was arbitrary, and notwithstanding ample opportunity to do so before the referee and the Court the Board had failed to show that its belated claim that the appliances were a fire hazard had any foundation in fact, the entire matter, including the evidence taken before the referee, would not be remitted to the Board for their further action thereon.-In re Davis Engineering Corp. (Murdock), 117 (113) N.Y.L.J. (5-15-47) 1914, Col. 5 F.

¶ 7.1. Article 78 of the Civil Practice Act applies to certiorari proceedings to review determinations of the Board of Standards and Appeals. Consequently, where a Special Term order remitted to the Board a matter involving a zoning variance for a rehearing in accordance with the views expressed by the court, the order was intermediate and not subject to appeal except by permission of the Special Term.-North American Holding Corp. v. Murdock, 6 A.D. 2d 596, 180 N.Y.S. 2d 436 [1958], aff'd, 6 N.Y. 2d 902, 190 N.Y.S. 2d 708, 160 N.E. 2d 926.

¶ 8. A proceeding against the Board of Standards and Appeals was governed by the special provisions of Administrative Code § 668e, rather than by the general provisions of C.P.A., Art 78. However, the appropriate proceedings under the Administrative Code might be taken upon the present petition, which was timely, inasmuch as if the proceeding were dismissed a new proceeding would be too late under § 688e.-45 Plaza Corp. v. Murdock, 105 (142) N.Y.L.J. (6-19-41) 2756, Col. 7 F.

¶ 8.1. On September 10 aggrieved property owners moved under Art. 78 of the Civil Practice Act to review the determination of the Board of Standards and Appeals concerning a zoning variance, which determination had been published in the Board's bulletin on August 13. On September 17, by stipulation, the order of certiorari was substituted for the moving papers. The petition was sufficient under both Art. 78 and § 668e-1.0 of the Administrative Code, and the papers served on September 10 were timely. The form or label of the documents is immaterial.-Matter of Kohnberg v. Murdock, 4 App. Div. 2d 750, 164 N.Y.S. 2d 870 [1957], rev'g, 4 Misc. 2d 877, 159 N.Y.S. 2d 515 [1956].

¶ 8.2. The 30-day limitation upon the presentation of the petition is exclusive.-Clarizio v. Murdock, 136 (82) N.Y.L.J. (10-26-56) 8, Col. 2 F.

¶ 8.3. Petition to review a determination made by the Board of Standards and Appeals was timely filed within the

fair sense of this section where petitioner invoked the jurisdiction of the court by serving the notice of motion and petition on Board within thirty day period although not presented to a Justice of the Supreme Court or at a Special Term of the Supreme Court within thirty days after filing or publication of the decision.-Matter of Bolles-Texas v. Bd. of Standards & Appeals, 53 Misc. 2d 798, 279 N.Y.S. 2d 796 [1967].

¶ 9. Time within which to bring a proceeding under Art. 78, to review a determination by the Board of Standards and Appeals, was governed by Administrative Code § 668e-1.0, limiting the time to 30 days after filing of the decision in the office of the Board, or its publication in the bulletin, and was not governed by C.P.A. § 1286, which provides for a four-month period of limitation. That the action of the Board was attacked as an abuse of discretion and not as illegal, was immaterial.-In re Nathan (Murdock), 62 N.Y.S. 2d 415 [1944].

¶ 10. The thirty-day period within which the applicant for a variance was required to present his petition to the Supreme Court for review of decision of the Board of Standards and Appeals did not begin to run from the time petitioner's attorney received a copy of the Board's bulletin, to which he was a yearly subscriber, but from the time of the filing of the decision in the office of the Board, or its publication in the bulletin.-In re Fleischer (Murdock), 62 N.Y.S. 2d 417 [1946].

¶ 11. Petition to court for review of the decision of the Board of Standards and Appeals denying application for variance was dismissed where the proceeding was not instituted within thirty days after publication of the decision in the Board's bulletin.-Id.

¶ 12. C.P.A. § 1286, providing for a four-month period within which to institute proceedings to review a determination, was not controlling with respect to a petition for review of a decision of the Board of Standards of the City of New York denying an application for a variance.-Id.

¶ 13. That over 30 days had elapsed since publication of the decisions of the Board of Standards and Appeals without an order of certiorari having been signed, was fatally defective to the petitioners.-In re Wermter (Bd. of Standards and Appeals), 124 (88) N.Y.L.J. (11-6-50) 1085, Col. 4 F.

¶ 14. The words "publication in the bulletin," as used in Administrative Code § 668e-1.0, as determining date from which time is to be computed for presenting a petition to review a decision of the Board of Standards and Appeals, cannot reasonably be held to require any more than that the bulletin in which the decision is contained be made available for distribution in order to commence the running of the time limited. The time when the bulletin is received by the party is not determinative.-Hercher v. Murdock, 200 Misc. 275, 105 N.Y.S. 2d 164 [1951].

¶ 15. Where the decision was published on March 18, 1941, an order of certiorari issued on May 8, 1941 was vacated on ground the application therefor was not timely made within requirement of Administrative Code § 668e-1.0 that the order be dated not more than thirty days after publication of the decision.-In re 521 Fifth Ave. Corp. (Murdock), 62 N.Y.S. 2d 414 [1941].

¶ 16. To review a decision of the Board of Standards and Appeals, a duly verified petition must be presented to a Justice of the Supreme Court by the party aggrieved within thirty days after the filing of the decision in the office of the Board or its publication in its bulletin. No discretion is allowed the Court to extend the time for review. The service of a notice of motion on the last day for filing a petition was ineffective and the court did not have jurisdiction.-Matter of Barry, 134 (3) N.Y.L.J. (7-6-55) 4, Col. 5 M.

¶ 17. Service on the Board of Standards and Appeals within the 30 day limitation period of a notice of motion of appeal from a determination of the Board, which notice was returnable before the Court more than 30 days after the date of the determination, was held not to be timely since the law is clear, definite and unambiguous with respect to the procedure and requirements for such review.-In re Barry (Bd. of Standards and Appeals) 134 (3) N.Y.L.J. (7-6-55) 4, Col. 5 M.

¶ 17.1 A proceeding to review and annul a determination of the Board of Standards and Appeals was not untimely where a copy of the petition and a notice of motion was served within the 30-day period after publication of the Board's determination. It made no difference that the petition was not returnable until after the 30-day period expired.-Matter of Satin, 12 App. Div. 2d 526, 208 N.Y.S. 2d 518 [1960].

¶ 18. Purchase money mortgagee of real property affected by action of defendant Board of Standards and Appeals in granting a zoning ordinance, was a party aggrieved and might maintain a proceeding to review the Board's grant of the variance-if not on her own behalf, she was to be deemed to have acted as the agent and with the consent of the holder of the legal title.-Eckerman v. Murdock, 276 App. Div. 927, 94 N.Y.S. 2d 557 [1950], aff'g, 195 Misc. 280, 91 N.Y.S. 2d 637.

¶ 18.1. Democratic District Leader of assembly district embracing the subject area was not a party aggrieved entitled to bring a proceeding for review by certiorari of a determination granting a variance to applicant for construction of an office building which would exceed existing bulk restriction, since there was no showing that he or the people he represented would suffer any special injury.-In re Osborne (Glass), 158 (83) N.Y.L.J. (10-30-67) 19, Col. 7 F.

¶ 19. Where on September 9 the City Planning Commission filed with the Board of Estimate a resolution which would forbid construction of six-story multiple dwellings in the area in question but such zoning change did not become effective until October 10, and on October 5 a permit was issued to respondent authorizing the building of such a multiple dwelling in that locality, application of owners of residential homes in the vicinity to enjoin construction of the dwelling pendente lite, was denied, in view of the controverted matters of fact and the complicated questions of law. However, since respondent conceded that its rights were to be resolved on basis of the status of things as at the time of the effective date of the zoning change, it might be held that it had knowingly proceeded thereafter at its peril. In the balance of interests, a restraining order should not issue, but the proceedings should be promptly heard.-In re Astor Village Taxpayers, Inc. (Board of Standards and Appeals), 129 N.Y.S. 2d 781 [1954].

¶ 19.1. Where defendants procured a variance from the zoning ordinance for the erection of an apartment house, an injunction action to restrain the construction was improper. Plaintiff had an adequate remedy by certiorari to review the action of the Board of Standards and Appeals, in which it could have sought a stay.-Yates Construction Corp. v. G.N.G. Bldg. Corp., 15 Misc. 2d 690, 182 N.Y.S. 2d 703 [1958].

¶ 19.2. An action for declaratory judgment that an order of the N.Y.C. Department of Buildings was unlawful and void was dismissed where petitioner did not first appeal to the Board of Standards and Appeals.-Namro Holding Corp. v. City of New York, 31 Misc. 2d 480, 221 N.Y.S. 2d 67 [1961].

¶ 19.3. Petitioners were not entitled to restrain the Board from proceeding with an application by a property owner for a variance of zoning regulations pursuant to § 666(5) of the Charter. The petitioners, if aggrieved, could have the Board's action reviewed in certiorari proceedings, pursuant to this section of the Code.-Lacitra v. Foley, 20 Misc. 2d 922, 195 N.Y.S. 2d 285 [1959].

¶ 20. The Board was not arbitrary when it denied an application to permit a change in occupancy of premises as a three-family dwelling. The petitioner had originally obtained approval of plans for the erection of a building for occupancy by one family, a doctor's office and a garage but had proceeded to erect a three-family house contrary to the approved plans and without applying for or obtaining a certificate of occupancy.-Seinfield v. Murdock, 148 N.Y.S. 2d 359 [1955].

¶ 20.1. Upon application for a permanent zoning variance, the Board of Standards and Appeals decided that this would be unwarranted and granted a two-year variance. More than four months prior to the expiration of this variance, the owner applied for an extension. No notice was given to interested parties. Thereupon the Board amended its resolution by granting a variance for an additional five years without having any new facts before it. Under such

circumstances, the extension was unwarranted.-New York Life Insurance Company v. Murdock, 15 Misc. 2d 552, 182 N.Y.S. 2d 397 [1958], aff'd, 8 App. Div. 2d 191, 186 N.Y.S. 2d 778 [1959].

¶ 20.2. The Board of Standards and Appeals could vote upon a variance to erect a gasoline service station, even though two of the Board were not members thereof at the time of the public hearing, where such members made an independent appraisal and reached an independent conclusion.-Tuohy v. Murdock, 140 (12) N.Y.L.J. (7-17-58) 5, Col. 8 F.

¶ 20.3. A Board hearing upon a variance may be informal. It need not be conducted like a trial.-In re Warshauer Haym Salomon Home for the Aged, 140 (97) N.Y.L.J. (11-19-58) 13, Col. 8 F.

¶ 20.4. In granting a variance, the Board need not sustain every contention of the applicant. The Board's decision may be based in part upon its own inspection and knowledge.-In re Warshauer Haym Salomon Home for the Aged, 140 (97) N.Y.L.J. (11-19-58) 13, Col. 8 F.

¶ 21. There is no statutory authority for directing the Board of Standards and Appeals to furnish a bill of particulars in a proceeding to review a determination of the Board.-Seinfield v. Murdock, 148 N.Y.S. 2d 359 [1955].

¶ 22. Application for an order reviewing and annulling respondent's determination which denied petitioner's application for certificate of occupancy **denied** where petitioners failed to first exhaust their remedies before the Board of Standards and Appeals.-Green v. Gillroy, 133 (13) N.Y.L.J. (1-19-55) 8, Col. 1 M.

¶ 22.1. Petitioner's request for cancellation of a notice of violation and directing issuance of certificate of occupancy for certain premises could not be reviewed under C.P.A. Art. 78 where the petitioner did not exhaust his administrative remedies by first appealing to the Board of Standards and Appeals.-Bard Manor, Inc. v. Rothkrug, 139 (25) N.Y.L.J. (2-5-58) 11, Col. 7 F.

¶ 22.2. Petitioners were not entitled to an order directing the recognition of existing certificates of occupancy or to the issuance of new certificates of occupancy where they had substantially complied with the law in the alteration of a building but had difficulty in obtaining the certificates. Petitioners were entitled to an order or determination of the Board, which order would be the subject of an appeal.-In re Walker, 31 Misc. 2d 915, 221 N.Y.S. 2d 564 [1961].

¶ 23. The provisions of this section are not controlling over contradictory provisions of the Civil Practice Act or any other general statute. Inasmuch as this section provides for verification of the petition, the acknowledgment of the petition was sufficient and the petition could be amended to correct the defect.-Smith v. Board of Standards and Appeals, 2 App. Div. 2d 67, 153 N.Y.S. 2d 131 [1956].

¶ 24. The failure to verify a petition for certiorari under this section is not a jurisdictional defect and can be corrected.-Smith v. Board of Standards and Appeals, 2 App. Div. 2d 67, 153 N.Y.S. 2d 131 [1956].

¶ 25. Petitioner was engaged in long distance moving business prior to zoning change. The court in reversing an order issued at special term which annulled a determination of the Board of Standards and Appeals of the City of New York stated, whether the certificate of occupancy should include other phases of business activities must be decided upon adequate proof to be taken upon notice to all parties.-Matter of Gscheidle v. Murdock, 280 App. Div. 74, 111 S. 2d 740 [1952].

¶ 26. A certiorari proceeding need not be initiated in the judicial district where the property is located, but it must be returnable therein. However, a defect in this respect is procedural and not jurisdictional.-St. Nicholas Russian Orthodox Church v. Board of Standards and Appeals, 140 (78) N.Y.L.J. (10-21-58) 12, Col. 4 T.

¶ 27. Action by an owner and lessee to enjoin the construction on adjoining premises of a building allegedly in violation of zoning ordinances was not barred by the plaintiff's failure to appeal to the Board of Standards and Appeals

from the granting of the building permit.-Lesron Jr., Inc. v. Feinberg, 13 A.D. 2d 90, 213 N.Y.S. 2d 602 [1961].

¶ 28. There was no authority or necessity for a reply in certiorari proceedings to review a determination of the Board of Standards and Appeals of the City of New York instituted pursuant to this section of the Code.-Application of River Drive Construction Corp., 30 Misc. 2d 139, 216 N.Y.S. 2d 955 [1961], aff'd, 14 A.D. 2d 884, 218 N.Y.S. 2d 566 [1961].

¶ 29. The Court would not interfere in an application to the Board of Standards and Appeals where there was no showing of new evidence or change of law.-In re N.Y. Central R.R. (Foley), 147 (55) N.Y.L.J. (3-21-62) 14, Col. 2 M.

¶ 30. Commencement of proceeding under this section by an order to show cause rather than an order of certiorari was not fatal, as respondents were sufficiently advised of the relief sought.-In re Zakin, 149 (55) N.Y.L.J. (3-21-63) 17, Col. 4 M.

¶ 31. Where adequate remedies were available to tenant under its lease tenant was not an "aggrieved party" entitled to bring an Article 78 proceeding to annul and cancel an alteration permit issued to the landlord.-Max Schling, Inc. v. Gribetz, 154 (109) N.Y.L.J. (12-8-65) 18, Col. 5 F.

¶ 32. Article 78 proceeding was timely commenced when notice of motion dated March 8, 1967 was served on Board of Standards and Appeals on March 10, 1967 and determination of Board was published in its bulletin on February 9, 1967 even though notice of motion was not literally presented to a Justice of the Supreme Court within thirty days of publication.-Bolles-Texas Corp. v. Bd. of Standards and Appeals, 53 Misc. 2d 798, 279 N.Y.S. 2d 796 [1967].

¶ 33. Where petitioner seeking review of determination of Board of Standards and Appeals by which a variance of requirements of Multiple Dwelling Law was denied on the ground of an alleged lack of jurisdiction served all parties with notice of petition and petition to review within thirty days after publication of Board's decision in its bulletin proceeding was not barred by the applicable statute of limitations even though papers were not presented to court until after expiration of the third day limitation period.-Matter of DeMarco (Glass) 157 (92) N.Y.L.J. (5-12-67) 17, Col. 2 M.

¶ 34. The four month statute of limitations contained in Article 78 CPLR is inapplicable where a specific shorter time is provided as in this section which requires that review from determination of Board of Standards and Appeals granting a zoning variance may be had upon presentation of a petition to the Court within thirty days after filing of the decision in the office of the Board or its publication in the bulletin.-In re McNaught, 157 (40) N.Y.L.J. (3-1-67) 22, Col. 5 M.

¶ 35. Requirement of Board of Standards and Appeals that subtenant obtain consent of landlord in order to appeal a determination of the Fire Department placing a violation on the premises because of subtenant's alleged improper storage of certain materials is not unreasonable or arbitrary.-Matter of J.S. Wald & Co., Inc. (Foley), 157 (31) N.Y.L.J. (2-15-67) 16, Col. 4 F.

¶ 36. Proceeding for certiorari to review and set aside a determination of the Board of Standards and Appeals which granted Lincoln Plaza Associates a variance from zoning resolutions was not timely where the certiorari proceeding was instituted within thirty days after the publication of the decision in the bulletin but not within thirty days after filing of the Board's decision in the offices of the Board and the Board's decision was properly filed at the close of the hearing when the Chairman read into the record a prepared written statement of a proposed decision granting the variance, a vote was taken and the vote sheet immediately filed.-In re City of N.Y. (Lincoln Plaza Associates) 161 (81) N.Y.L.J. (4-25-69) 16, Col. 2 M.

¶ 37. Adjoining landowner who had not established that he would be specially, personally and adversely affected was not a person aggrieved so as to attack zoning variances.-In re Ken Bar Development Corp. (Board of Standards and

Appeals), 166 (55) N.Y.L.J. (9-17-71) 17, Col. 2 F.

¶ 38. Community Planning Board had no standing to bring an Article 78 proceeding to review a variance granted by respondent permitting certain changes to be made in a restaurant in a general residential district where it was contended that the restaurant catered to "intoxicated and drug-drenched patrons" who were "disorderly and boisterous", but a resident owner of nearby property and tenants living in the immediate vicinity had such standing.-Community Planning Board No. 2 v. Board of Standards & Appeals, 43 A.D. 2d 670, 350 N.Y.S. 2d 138 [1973].

¶ 39. A civic association of over 1,000 owners and residents in the immediate vicinity of the area involved was an aggrieved person within the meaning of this statute and had standing to institute an Article 78 proceeding to review the determination of the New York City Board of Standards and Appeals which denied a request to reconsider a grant of variance to construct a six-story multiple dwelling.-Matter of Douglaston Civic Asso. v. Galvin, 36 N.Y. 2d 1, 364 N.Y.S. 2d 830, 324 N.E. 2d 317 [1974].

¶ 40. Subd. (a) requires that an Art. 78 proceeding against the Board of Standards and Appeals be commenced "within 30 days after filing of the decision in the office of the board, or its publication in the bulletin." The 30 day period begins to run upon the first act to occur (i.e., the filing or publication), not the last. Petition is untimely. Mandamus is not available since the board's accepting jurisdiction is discretionary and not as of right.-The ad hoc committee to save Dean St. and Carlton Ave. v. N.Y.C. Board of Standards and Appeals, 191(60) N.Y.L.J. (3-28-84) 11, Col. 4 T.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-301

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-301 Purpose and declaration of public policy.

a. The council finds that many improvements, as herein defined, and landscape features, as herein defined, having a special character or a special historical or aesthetic interest or value and many improvements representing the finest architectural products of distinct periods in the history of the city, have been uprooted, notwithstanding the feasibility of preserving and continuing the use of such improvements and landscape features, and without adequate consideration of the irreplaceable loss to the people of the city of the aesthetic, cultural and historic values represented by such improvements and landscape features. In addition, distinct areas may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the sense of the council that the standing of this city as a world wide tourist center and world capital of business, culture and government cannot be maintained or enhanced by disregarding the historical and architectural heritage of the city and by countenancing the destruction of such cultural assets.

b. It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements and landscape features of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this chapter is to (a) effect and accomplish the protection, enhancement and perpetuation of such improvements and landscape features and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history; (b) safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such improvements, landscape features and districts; (c) stabilize and improve property values in such districts; (d) foster civic pride in the beauty and noble accomplishments of the past; (e) protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; (f) strengthen the economy

of the city; and (g) promote the use of historic districts, landmarks, interior landmarks and scenic landmarks for the education, pleasure and welfare of the people of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 205-1.0 added LL 46/1965 § 2

Amended LL 71/1973 § 2

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NYC Administrative Code 25-302

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-302 Definitions.

As used in this chapter, the following terms shall mean and include:

a. "Alteration." Any of the acts defined as an alteration by the building code of the city.

b. "Appropriate protective interest." Any right or interest in or title to an improvement parcel or any part thereof, including, but not limited to, fee title and scenic or other easements, the acquisition of which by the city is determined by the commission to be necessary and appropriate for the effectuation of the purpose of this chapter.

c. "Capable of earning a reasonable return." Having the capacity, under reasonably efficient and prudent management, of earning a reasonable return. For the purposes of this chapter, the net annual return, as defined in subparagraph (a) of paragraph three of subdivision v of this section, yielded by an improvement parcel during the test year, as defined in subparagraph (b) of such paragraph, shall be presumed to be the earning capacity of such improvement parcel, in the absence of substantial grounds for a contrary determination by the commission.

c-1. "Chair." The chair of the landmarks preservation commis- sion.

d. "City-aided project." Any physical betterment of real property, which:

(1) may not be constructed or effected without the approval of one or more officers or agencies of the city; and

(2) upon completion, will be owned in whole or in part by any person other than the city; and

(3) is planned to be constructed or effected, in whole or in part, with any form of aid furnished by the city (other than under this chapter), including, but not limited to, any loan, grant, subsidy or other mode of financial assistance, exercise of the city's powers of eminent domain, contribution of city property, or the granting of tax exemption or tax abatement; and

(4) will involve the construction, reconstruction, alteration or demolition of any improvement in a historic district or of a landmark.

e. "Commission." The landmarks preservation commission.

f. "Day." Any day other than a Saturday, Sunday or legal holiday; provided, however, that for purposes of section 25-303 and subdivision d of section 25-317 of this chapter, the term "day" shall mean every day in the week.

f-1. "Designation report." The report prepared by the commission and used as a basis for designating a landmark or historic district pursuant to this chapter.

g. "Exterior architectural feature." The architectural style, design, general arrangement and components of all of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by said exterior surfaces, including, but not limited to, the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

h. "Historic district." Any area which:

(1) contains improvements which:

(a) have a special character or special historical or aesthetic interest or value; and

(b) represent one or more periods or styles of architecture typical of one or more eras in the history of the city; and

(c) cause such area, by reason of such factors, to constitute a distinct section of the city; and

(2) has been designated as a historic district pursuant to the provisions of this chapter.

i. "Improvement." Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

j. "Improvement parcel." The unit of real property which (1) includes a physical betterment constituting an improvement and the land embracing the site thereof, and (2) is treated as a single entity for the purpose of levying real estate taxes, provided however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

k. "Interior." The visible surfaces of the interior of an improvement.

l. "Interior architectural feature." The architectural style, design, general arrangement and components of an interior, including, but not limited to, the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such interior.

m. "Interior landmark." An interior, or part thereof, any part of which is thirty years old or older, and which is customarily open or accessible to the public, or to which the public is customarily invited, and which has a special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation, and which has been designated as an interior landmark pursuant to the provisions of this chapter.

n. "Landmark." Any improvement, any part of which is thirty years old or older, which has a special character or special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation, and which has been designated as a landmark pursuant to the provisions of this chapter.

o. "Landmark site." An improvement parcel or part thereof on which is situated a landmark and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the landmark is situated, and which has been designated as a landmark site pursuant to the provisions of this chapter.

p. "Landscape feature." Any grade, body of water, stream, rock, plant, shrub, tree, path, walkway, road, plaza, fountain, sculpture or other form of natural or artificial landscaping.

q. "Minor work." Any change in, addition to or removal from the parts, elements or materials comprising an improvement, including, but not limited to, the exterior architectural features or interior architectural features thereof and, subject to and as prescribed by regulations of the commission if and when promulgated pursuant to section 25-319 of this chapter, the surfacing, resurfacing, painting, renovating, restoring or rehabilitating of the exterior architectural features or interior architectural features or the treating of the same in any manner that materially alters their appearance, where such change, addition or removal does not constitute ordinary repairs and maintenance and is of such nature that it may be lawfully effected without a permit from the department of buildings.

q-1. "Offense." As used in the phrase "second and subsequent offense", a violation encompassing some or all of the conditions or actions described or encompassed by a prior notice of violation or summons. For purposes of this definition, there shall be a presumption that the conditions encompassed by a second or subsequent offense have been in existence for each day between the time the respondent admits to liability or is found liable for or guilty of the prior offense and the time the second or subsequent notice of violation or summons is served.

r. "Ordinary repairs and maintenance." Any:

(1) work done on any improvement; or

(2) replacement of any part of an improvement;

for which a permit issued by the department of buildings is not required by law, where the purpose and effect of such work or replacement is to correct any deterioration or decay of or damage to such improvement or any part thereof and to restore same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

s. "Owner." Any person or persons having such right to, title to or interest in any improvement so as to be legally entitled, upon obtaining the required permits and approvals from the city agencies having jurisdiction over building construction, to perform with respect to such property any demolition, construction, reconstruction, alteration or other work as to which such person seeks the authorization or approval of the commission pursuant to section 25-309 of this chapter.

t. "Person in charge." The person or persons possessed of the freehold of an improvement or improvement parcel or a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person directly or indirectly in control of an improvement or improvement parcel.

u. "Protected architectural feature." Any exterior architectural feature of a landmark or any interior architectural feature of an interior landmark.

v. "Reasonable return." (1) A net annual return of six per centum of the valuation of an improvement parcel.

(2) Such valuation shall be the current assessed valuation established by the city, which is in effect at the time of

the filing of the request for a certificate of appropriateness; provided that:

(a) The commission may make a determination that the valuation of the improvement parcel is an amount different from such assessed valuation where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of such request; and

(b) The commission may make a determination that the value of the improvement parcel is an amount different from the assessed valuation where there has been a bona fide sale of such parcel within the period between March fifteenth, nineteen hundred fifty-eight, and the time of the filing of such request, as the result of a transaction at arm's length, on normal financing terms, at a readily ascertainable price, and unaffected by special circumstances such as, but not limited to, a forced sale, exchange of property, package deal, wash sale or sale to a cooperative. In determining whether a sale was on normal financing terms, the commission shall give due consideration to the following factors:

(1) The ratio of the cash payment received by the seller to (a) the sales price of the improvement parcel and (b) the annual gross income from such parcel;

(2) The total amount of the outstanding mortgages which are liens against the improvement parcel (including purchase money mortgages) as compared with the assessed valuation of such parcel;

(3) The ratio of the sales price to the annual gross income of the improvement parcel, with consideration given, where the improvement is subject to residential rent control, to the total amount of rent adjustments previously granted, exclusive of rent adjustments because of changes in dwelling space, services, furniture, furnishings, or equipment, major capital improvements, or substantial rehabilitation;

(4) The presence of deferred amortization in purchase money mortgages, or the assignment of such mortgages at a discount;

(5) Any other facts and circumstances surrounding such sale which, in the judgment of the commission, may have a bearing upon the question of financing.

(3) For the purposes of this subdivision v:

(a) Net annual return shall be the amount by which the earned income yielded by the improvement parcel during a test year exceeds the operating expenses of such parcel during such year, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the assessed value of the improvement, exclusive of the land, or the amount shown for depreciation of the improvement in the latest required federal income tax return, whichever is lower; provided, however, that no allowance for depreciation of the improvement shall be included where the improvement has been fully depreciated for federal income tax purposes or on the books of the owner; and

(b) Test year shall be (1) the most recent full calendar year, or (2) the owner's most recent fiscal year, or (3) any twelve consecutive months ending not more than ninety days prior to the filing (a) of the request for a certificate, or (b) of an application for a renewal of tax benefits pursuant to the provisions of section 25-309 of this chapter, as the case may be.

w. "Scenic landmark." Any landscape feature or aggregate of landscape features, any part of which is thirty years old or older, which has or have a special character or special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated a scenic landmark pursuant to the provisions of this chapter.

x. As used in section 25-317.1:

(1) "Type A violation." Except as otherwise defined by the rules of the commission, the following work done or condition created or maintained in violation of this chapter without an appropriate approval from the commission:

(a) the removal of or alterations to, except for painting, a significant portion of an exterior architectural feature, including, without limitation thereof, removal of or alterations to:

(i) the windows on a single facade or, where original, historic or special windows exist, the removal of or alterations to a significant portion of such original, historic or special windows on a single facade;

(ii) a decorative element made of metal, glass, wood, brick, ceramic and/or stone including, without limitation thereof, a cornice, lintel, grille or molding;

(iii) the paving stones or curbstones of a stone sidewalk;

(iv) an exterior doorway or stoop;

(v) a wall, fence, railing, porch, balcony or roof, including dormers, bays, gables and parapets; and

(vi) a storefront, but not including the installation of signs, awnings, flagpoles or banners;

(b) the removal of or alterations to a significant portion of a protected feature of an interior landmark as described in the designation report;

(c) the construction of all or a portion of a new building, structure, addition or any other improvement on a landmark site or within the boundaries of a historic district. Without limiting the generality of the foregoing, any significant modification of the existing bulk or envelope of a building shall be a violation under this paragraph;

(d) the elimination by paving or other construction of a significant portion of an area-way, planting area, or front, rear or side yards, where such feature is a significant component of the landmark or historic district;

(e) where the improvement is not a building or an interior landmark, the removal of or alterations to a significant portion of such improvement;

(f) the failure to submit to the commission any periodic inspection report required under the terms of a restrictive declaration recorded in connection with any zoning permit, certification or authorization granted to an improvement under the jurisdiction of the commission.

(2) "Type B violation". Except as otherwise defined by the rules of the commission, the failure to maintain an improvement in a condition of good repair in violation of section 25-311 of this chapter, and where such condition results or may result in significant deterioration of either a significant portion of the improvement or a character-defining, protected, architectural feature of such improvement.

(a) For purposes of this subdivision, and without limiting the scope thereof, the term "significant deterioration" shall include the failure to maintain:

(i) the improvement in a structurally sound or reasonably water-tight condition; or

(ii) a character-defining, protected, architectural feature in a structurally sound or reasonably water-tight condition or otherwise failing to preserve the integral historic material of such feature.

(b) For purposes of this subdivision, the term "significant deterioration" shall not include:

(i) any condition that may permit some water penetration and/or evidence slight structural deterioration, unless

such condition has existed over a period of time such that it has led or may reasonably lead to significant water penetration or structural damage to a significant part of a facade or roof; or

(ii) the failure to maintain a small part of a single, character-defining, protected, architectural feature or a small portion of the decorative, architectural features of the improvement taken as a whole.

(3) "Type C violation". All other violations of this chapter, except for violations of section 25-311 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. c-1 added L.L. 1/1998 § 1, eff. July 5, 1998.

Subd. f amended L.L. 71/1991 § 1 eff. July 19, 1991

Subd. f-1 added L.L. 1/1998 § 1, eff. July 5, 1998.

Subd. q-1 added L.L. 1/1998 § 1, eff. July 5, 1998.

Subd. x added L.L. 1/1998 § 1, eff. July 5, 1998.

Subd. x par (2) renumbered (formerly par (4)) and amended L.L. 18/2005 § 1, eff. Feb. 15, 2005.

Subd. x par (3) added L.L. 18/2005 § 1, eff. Feb. 15, 2005.

DERIVATION

Formerly § 207-1.0 added LL 46/1965 § 2

Amended LL 71/1973 § 3

CASE NOTES

¶ 1. Landmarks Preservation Commission did not exceed its power when it ordered defendants to remove sculpture from parcel located in Greenwich Village Historic District, as Landmarks Preservation Law applies to unimproved free-standing plot which is not part of larger tax parcel but "is treated as a single entity for such tax purposes, Ad Code §§25-302(j) and 25-305(a), nor was the action an unconstitutional taking of property. City of New York v. Shakespear, 202 AD2d 237, 608 N.Y.S.2d 460, motion for leave to appeal dismissed 84 N.Y.2d 923, 621 N.Y.S.2d 521 [1994].

¶ 2. The court rejected a claim that this section was unconstitutionally vague. Russo v. Beckelman, 204 A.D.2d 160, 611 N.Y.S.2d 869 (1st Dept. 1994).

¶ 3. The City had the power to landmark an interior of a famous restaurant that was customarily open or accessible to the public. Matter of Teachers Insurance and Annuity Association of America v. City of New York, 82 N.Y.2d 35, 603 N.Y.S.2d 399 (1993).

¶ 4. A church may be prevented by the landmarks law from replacing a church-owned building (an auxiliary structure adjacent to the church's main house of worship) with an office tower. Since the law is facially neutral, it does not infringe on the free exercise of religion. The church unsuccessfully contended that the refusal of the City to permit the sale adversely affected the finances of the church and thus impaired its performance of charitable and community activities. The mere fact that over 15 percent of landmarked properties happen to be religious properties does not mean

that the statute is aimed at religious buildings, many religious structures have special character or special historic or aesthetic interests that make them candidates for landmarking, independent of their religious nature. St. Bartholomew's Church v. City of New York, 914 F.2d 349 (2nd Cir. 1990).

¶ 5. Review of a administrative determination regarding landmarking is limited to whether the decision has a rational basis or whether they were arbitrary and capricious. The mere fact that a reason is not given for a determination does not render it arbitrary and capricious. Matter of the Application of 400 East 64/65th Street Block Association v. City of New York, 183 A.D.2d 531, 583 N.Y.S.2d 452 (1st Dept. 1992).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-303

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-303 Establishment of landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts.

a. For the purpose of effecting and furthering the protection, preservation, enhancement, perpetuation and use of landmarks, interior landmarks, scenic landmarks and historic districts, the commission shall have power, after a public hearing:

(1) to designate and, as herein provided in subdivision j, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to, a list of landmarks which are identified by a description setting forth the general characteristics and location thereof;

(2) to designate and, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to, a list of interior landmarks, not including interiors utilized as places of religious worship, which are identified by a description setting forth the general characteristics and location thereof;

(3) to designate and, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to a list of scenic landmarks, located on property owned by the city, which are identified by a description setting forth the general characteristics and location thereof; and

(4) to designate historic districts and the location and boundaries thereof, and, in order to effectuate the purposes of this chapter, to designate changes in such locations and boundaries and designate additional historic districts and the location and boundaries thereof.

b. It shall be the duty of the commission, after a public hearing, to designate a landmark site for each landmark

and to designate the location and boundaries of such site.

c. The commission shall have power, after a public hearing, to amend any designation made pursuant to the provisions of subdivisions a and b of this section.

d. The commission may, after a public hearing, whether at the time it designates a scenic landmark or at any time thereafter, specify the nature of any construction, reconstruction, alteration or demolition of any landscape feature which may be performed on such scenic landmark without prior issuance of a report pursuant to subdivision c of section 25-318. The commission shall have the power, after a public hearing, to amend any specification made pursuant to the provisions of this subdivision.

e. Subject to the provisions of subdivisions g and h of this section, any designation or amendment of a designation made by the commission pursuant to the provisions of subdivisions a, b and c of this section shall be in full force and effect from and after the date of the adoption thereof by the commission.

f. Within ten days after making any such designation or amendment thereof, the commission shall file a copy of same with the council, the department of buildings, the city planning commission, the board of standards and appeals, the fire department and the department of health and mental hygiene.

g. (1) Within sixty days after such filing, the city planning commission shall (a) hold a public hearing on any such designation of a historic district and (b) shall submit to the council a report with respect to the relation of such designation, whether of a historic district or a landmark, interior landmark, scenic landmark, or landmark site, or amendment of such designation to the zoning resolution, projected public improvements and any plans for the development, growth, improvement or renewal of the area involved. The city planning commission shall include with any such report its recommendation, if any, for council action with respect to any such designation of a historic district.

(2) The council may modify or disapprove by majority vote any designation of the commission or amendment thereof within one hundred twenty days after a copy thereof is filed with the council provided that the city planning commission has submitted the report required by this subdivision or that sixty days have elapsed since the filing of the designation or amendment with the council. All votes of the council pursuant to this subdivision shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing. Any such disapproval by the mayor shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing. If the council shall disapprove such designation or amendment, such designation or amendment shall continue in full force and effect until the time for disapproval by the mayor has expired; provided, however, that if the mayor disapproves such council disapproval, it shall continue in full force and effect unless the council overrides the mayor's disapproval. If the council shall modify such designation or amendment, such designation or amendment as adopted by the commission shall continue in full force and effect until the time for disapproval by the mayor has expired, and after such time such modification shall be in effect; provided, however, that if the mayor disapproves such council modification, the designation or amendment as adopted by the commission shall continue in full force and effect unless the council overrides the mayor's disapproval, and in the event of override the modification shall take effect on and after the date of such override.

h. (1) The commission shall have power, after a public hearing, to adopt a resolution proposing rescission, in whole or in part, of any designation or amendment or modification thereof mentioned in the preceding subdivisions of this section. Within ten days after adopting any such resolution, the commission shall file a copy thereof with the council and the city planning commission.

(2) Within sixty days after such filing, the city planning commission shall submit to the council a report with respect to the relation of such proposed rescission of any such designation, whether of a historic district or a landmark, interior landmark, scenic landmark or landmark site, or amendment or modification thereof, to the zoning resolution, projected public improvements and any plans for the development, growth, improvement, or renewal of the area

involved.

(3) The council may approve, disapprove or modify such proposed rescission within one hundred twenty days after a copy of the resolution proposing same is filed with the council, provided that the city planning commission has submitted the report required by this subdivision or that sixty days have elasped since the filing of such resolution. Failure to take action on such proposed rescission within such one hundred twenty-day period shall be deemed a vote to disapprove such proposed rescission. All votes of the council pursuant to this subdivision shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing. Any such mayoral disapproval shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing. If such proposed rescission is approved or modified by the council, such rescission or modification thereof shall not take effect until the time for disapproval by the mayor has expired; provided, however, that if the mayor disapproves such rescission or modification, it shall not take effect unless the council overrides the mayor's disapproval. If such proposed rescission is disapproved by the council, it shall not take effect unless the mayor disapproves such council disapproval and the council fails to override the mayor's disapproval.

i. The commission may at any time make recommendations to the city planning commission with respect to amendments of the provisions of the zoning resolution applicable to improvements in historic districts.

j. All designations and supplemental designations of landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts made pursuant to subdivision a shall be made pursuant to notices of public hearings given, as provided in section 25-313. In addition to such notice, the commission shall give notice to the city planning commission, all affected community boards and the office of the borough president in whose borough the property or district is located in advance of any public hearing relating to such designations.

k. Upon its designation of any improvement parcel as a landmark and of any landmark site, interior landmark, scenic landmark or historic district or any amendment of any such designation or rescission thereof, the commission shall cause to be recorded in the office of the register of the city of New York in the county in which such landmark, interior landmark, scenic landmark or district lies, or in the case of landmarks, interior landmarks, scenic landmarks and districts in the county of Richmond in the office of the clerk of said county of Richmond, a notice of such designation, amendment or rescission describing the party affected by, in the case of the county of Richmond, its land map block number or numbers, and its tax map, block and lot number or numbers, and in the case of all other counties, by its land map block and lot number or numbers.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. f amended L.L. 22/2002 § 53, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

Subds. f, g, h, j amended L.L. 71/1991 § 2, eff. July 19, 1991.

DERIVATION

Formerly § 207-2.0 added LL 46/1965 § 2

Amended LL 71/1973 § 4

Amended LL 54/1977 § 14

CASE NOTES FROM FORMER SECTION

¶ 1. The designation of the Leonard Jerome House as a landmark after the owner had entered into a contract for its sale to a purchaser who proposed to raze the building and erect an office building on the site did not constitute a

deprivation of property without due process of law as the only effect of the law is to prohibit "alteration, reconstruction or demolition of the exterior architectural features of the building without prior approval of the commission, the owner being at liberty to do as it pleases with the interior." Matter of Manhattan Club v. Landmarks Preservation Comm., 51 Misc. 2d 556, 273 N.Y.S. 2d 848 [1966].

¶ 2. Petition of real estate owner for an order prohibiting the Commission from naming certain areas within Greenwich Village as Historic Districts on the ground that it could take no action on these proposals between December 28, 1966 which was the expiration date of the 18-month period after the Commission was appointed and that period beginning 36 months thereafter was denied as a designation can be made during the ":interim" 36-month period and hearings could be had within such periods provided these be limited to those made pursuant to notices published in the first 18-month period and subsequent 6-month periods. Ragone v. Landmarks Preservation Commission, 157 (51) N.Y.L.J. (3-16-67) 15, Col. 3 F.

¶ 3. A landmark designation of a building that had been the home of J. P. Morgan, Jr. and which was now owned by a religious corporation and used for its offices was an unconstitutional confiscation of the corporation's property where the building was wholly inadequate for the purposes of the religious corporation which wished to demolish the mansion and build a modern office building on the site and where no adequate compensation was awarded for curtailment of the owner's free use of the premises.-Lutheran Church in America v. City of N.Y., 35 N.Y. 2d 121, 376 N.E. 2d 305, 359 N.Y.S. 2d 7 [1974].

¶ 4. Application of landmarks law through denial of a certificate of appropriateness for construction of a tower over Grand Central Station was not unconstitutional since in this case the application of the law did not impose such a burden as to constitute a compensable taking the plaintiffs not being able to establish that they were incapable of obtaining a reasonable return from Grand Central Terminal operations.-Penn Central Transportation Co. v. City of N.Y., 50 A.D. 2d 265 [1975].

¶ 5. Designation of landmarks by the Landmarks Preservation Commission of an historic district need not be in accord with a well considered plan required for zoning regulations.-Omabuild N.V. v. Bd. of Estimate, 116 Misc. 2d 566 [1982].

¶ 6. If the Commission's records are erroneous or the Commission fails to furnish the requisite information to the owner of a building, and the owner commences work on the building believing it not to be in an historic district, the Commission is equitably estopped from opposing the alterations if the Commission later determines the building to be within an historic district.-Harney v. Norman, 192 (84) N.Y.L.J. (10-30-84) 14, Col. 1 T.

CASE NOTES

¶ 1. Landmarks preservation commission was estopped from directing petitioners to restore 15 windows in their cooperative apartment, an estimated cost of $400,000. Petitioners' architects prior to replacing the old windows searched the municipal department of buildings' records and obtained permits from that agency without finding an historic district designation on file. Commission is obligated to file such designation pursuant to § 25-303(f), and this is a serious omission. Absence of such notice and where another apartment in the same building did receive a dispensation and same relief should be granted. Rudey v. Landmarks Comm., 182 AD2d 61, 587 N.Y.S.2d 623, aff'd 82 N.Y.2d 832, 606 N.Y.S.2d 588 (1993).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-304

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-304 Scope of commission's powers.

a. Nothing contained in this chapter shall be construed as authorizing the commission, in acting with respect to any historic district or improvement therein, or in adopting regulations in relation thereto, to regulate or limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, to regulate density of population or to regulate and restrict the locations of trades and industries or location of buildings designed for specific uses or to create districts for any such purpose.

b. Except as provided in subdivision a of this section, the commission may, in exercising or performing its powers, duties or functions under this chapter with respect to any improvement in a historic district or on a landmark site or containing an interior landmark, or any landscape feature of a scenic landmark, apply or impose, with respect to the construction, reconstruction, alteration, demolition or use of such improvement or landscape feature or the performance of minor work thereon, regulations, limitations, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-3.0 added LL 46/1965 § 2

Sub b amended LL 71/1973 § 5

CASE NOTES

¶ 1. A group of neighborhood residents challenged the issuance by the Landmarks Preservation Commission of a certificate of appropriateness for a warehouse which was located at the edge of a historic district. The developer planned to build a hotel complex which was partly adjacent to but just outside the historic district. The court held that the doctrine of exhaustion of administrative remedies applied, so that if the petitioners contested whether the Commission had jurisdiction to approve the project, that issue had to be raised before the Commission or the court could not consider the issue in an Article 78 proceeding. There was actually a judicial estoppel here, because the petitioners previously asked the Commission to disapprove the project and then, when unsuccessful, belatedly claimed that the Commission had proceeded in excess of its jurisdiction. In any event, the court held that the Commission properly exercised jurisdiction over the entire project, because the hotel project involved structural components which were to be integrated into a single hotel building with common mechanical systems. The wall of the historic warehouse was to be pierced and removed in order to create a two story link and hotel tower. Thus, where the hotel project could not be separated from, and had a direct link to, the warehouse, the Commission had the power to approve or disapprove of the project. 67 Vestry Tenants Association v. Raab, 658 N.Y.S.2d 804 (Sup.Ct. New York Co. 1997).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-305

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-305 Regulation of construction, reconstruction, alterations and demolition.

a. (1) Except as otherwise provided in paragraph two of this subdivision a, it shall be unlawful for any person in charge of a landmark site or an improvement parcel or portion thereof located in an historic district or any part of an improvement containing an interior landmark to alter, reconstruct or demolish any improvement constituting a part of such site or constituting a part of such parcel and located within such district or containing an interior landmark, or to construct any improvement upon land embraced within such site or such parcel and located within such district, or to cause or permit any such work to be performed on such improvement or land, unless the commission has previously issued a certificate of no effect on protected architectural features, a certificate of appropriateness or a notice to proceed authorizing such work, and it shall be unlawful for any other person to perform such work or cause same to be performed, unless such certificate or notice has been previously issued.

(2) The provisions of paragraph one of this subdivision a shall not apply to any improvement mentioned in subdivision a of section 25-318 of this chapter, or to any city-aided project, or in cases subject to the provisions of section 25-312 of this chapter.

(3) It shall be unlawful for the person in charge of any improvement or land mentioned in paragraph one of this subdivision a to maintain same or cause or permit same to be maintained in the condition created by any work in violation of the provisions of such paragraph one.

b. (1) Except in the case of any improvement mentioned in subdivision a of section 25-318 of this chapter and except in the case of a city-aided project, no application shall be approved and no permit or amended permit for the construction, reconstruction, alteration or demolition of any improvement located or to be located on a landmark site or

in an historic district or containing an interior landmark shall be issued by the department of buildings, and no application shall be approved and no special permit or amended special permit for such construction, reconstruction or alteration, where required by article seven of the zoning resolution, shall be granted by the city planning commission or the board of standards and appeals, until the commission shall have issued either a certificate of no effect on protected architectural features, a certificate of appropriateness or a notice to proceed pursuant to the provisions of this chapter as an authorization for such work.

c. (1) A copy of every application or amended application for a permit to construct, reconstruct, alter or demolish any improvement located or to be located on a landmark site or in an historic district or containing an interior landmark shall, at the time of the submission of the original thereof to the department of buildings, be filed by the applicant with the commission. A copy of every application, under article seven of the zoning resolution, for a special permit for any work which includes the construction, reconstruction or alteration of any such improvement shall, at the time of the submission of such application or amended application of the city planning commission or the board of standards and appeals, as the case may be, be filed with the commission.

(2) Every such copy of an application or amended application filed with the commission shall include plans and specifications for the work involved, or such other statement of the proposed work as would be acceptable by the department of buildings pursuant to the building code. The applicant shall furnish the commission with such other information relating to such application as the commission may from time to time require.

(3) Together with the copies of such application or amended application, every such applicant shall file with the commission a request for a certificate of no effect on protected architectural features or a certificate of appropriateness in relation to the proposed work specified in such application.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-4.0 added LL 46/1965 § 2

Amended LL 71/1973 § 6

CASE NOTES FROM FORMER SECTION

¶ 1. Where Landmarks Preservation Commission in denying petitioner's application for a certificate of appropriateness for the demolition of a storefront building in a historic district in order to erect a two car garage did not give any reasons for denying demolition request and there was nothing in the record to indicate that the commission considered the factors set forth in § 207-6.0 the decision of the commission would be vacated as arbitrary and capricious and the matter remanded for further findings and a new determination.-Matter of Equitable Funding Corp. (Spatt) 179 (27) N.Y.L.J. (2-8-78) 10, Col. 2 B.

¶ 2. It is no defense to condemnation proceeding brought by Urban Development Corporation against commercial tenants in hotel it acquired that leasee of condemnor who planned to reconstruct the hotel as part of a project was to alter Grand Central Station, a historical landmark adjacent to the hotel, without the leasee or condemnor having first obtained the necessary certificate, the proper remedy being a suit to have such violation of law enjoined.-N.Y. State Urban Dev. Corp. v. Vanderlex Merchandise Co., 98 Misc. 2d 264 [1979].

¶ 3. The issuance of a demolition permit to demolish a former landmark is a ministerial act and exempt from meeting city and state environmental statutes.-79th St. Mt. Neboh Preservation Committee v. McGough, 189 (105) N.Y.L.J. (6-1-83) 7, Col. 1 B.

¶ 4. Rejected petitioners argument that the City Landmarks Preservation Commission could not permit alterations of a non-landmark in a historic district. Allowed Marymount School, located across from Met. Museum, to construct gym on roof.-1025 Fifth Ave. Inc. v. Marymount School, 190 (124) N.Y.L.J. (12-30-83) 6, Col. 1 B.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-306

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-306 Determination of request for certificate of no effect on protected architectural features.

a. (1) In any case where an applicant for a permit from the department of buildings to construct, reconstruct, alter or demolish any improvement on a landmark site or in an historic district or containing an interior landmark, or an applicant for a special permit from the city planning commission or the board of standards and appeals authorizing any such work pursuant to article seven of the zoning resolution, or amendments thereof, files a copy of such application or amended application with the commission, together with a request for a certificate of no effect on protected architectural features, the commission shall determine: (a) whether the proposed work would change, destroy or affect any exterior architectural feature of the improvement on a landmark site or in an historic district or any interior architectural feature of the interior landmark upon which said work is to be done; and (b) in the case of construction of a new improvement, whether such construction would affect or not be in harmony with the external appearance of other, neighboring improvements on such site or in such district. If the commission determines such question in the negative, it shall grant such certificate; otherwise, it shall deny such request.

(2) Within thirty days after the filing of such application and request, the commission shall either grant such certificate, or give notice to the applicant of a proposed denial of such request. Upon written demand of the applicant filed with the commission after the giving of notice of a proposed denial, the commission shall confer with the applicant. The commission shall determine the request for a certificate within thirty days after the filing of such demand. If a demand is not filed within ten days after the giving of notice of the proposed denial, the commission shall determine such request within five days after the expiration of such ten-day period.

(3) In the event of a denial of such a certificate, the applicant may file with the commission a request for a certificate of appropriateness with respect to the proposed work specified in such application.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-5.0 added LL 46/1965 § 2

Amended LL 71/1973 § 7

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-307

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-307 Factors governing issuance of certificate of appropriateness.

a. In any case where an applicant for a permit to construct, reconstruct, alter or demolish any improvement on a landmark site, or in an historic district or containing an interior landmark, files such application with the commission together with a request for a certificate of appropriateness, and in any case where a certificate of no effect on protected architectural features is denied and the applicant thereafter, pursuant to the provisions of section 25-306 of this chapter, files a request for a certificate of appropriateness, the commission shall determine whether the proposed work would be appropriate for and consistent with the effectuation of the purposes of this chapter. If the commission's determination is in the affirmative on such question, it shall grant a certificate of appropriateness, and if the commission's determination is in the negative, it shall deny the applicant's request, except as otherwise provided in section 25-309 of this chapter.

b. (1) In making such determination with respect to any such application for a permit to construct, reconstruct, alter or demolish an improvement in an historic district, the commission shall consider (a) the effect of the proposed work in creating, changing, destroying or affecting the exterior architectural features of the improvement upon which such work is to be done, and (b) the relationship between the results of such work and the exterior architectural features of other, neighboring improvements in such district.

(2) In appraising such effects and relationship, the commission shall consider, in addition to any other pertinent matters, the factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color.

(3) All determinations of the commission pursuant to this subdivision b shall be made subject to the provisions of section 25-304 of this chapter, and the commission, in making any such determination, shall not apply any regulation,

limitation, deter- mination or restriction as to the height and bulk of buildings, the area of yards, courts or other open spaces, density of population, the location of trades and industries, or location of buildings designed for specific uses, other than the regulations, limitations, determinations and restrictions as to such matters prescribed or made by or pursuant to applicable provisions of law, exclusive of this chapter; provided, however, that nothing contained in such section 25-304 or in this subdivision b shall be construed as limiting the power of the commission to deny a request for a certificate of appropriateness for demolition or alteration of an improvement in an historic district (whether or not such request also seeks approval, in such certificate, of construction or reconstruction of any improvement), on the ground that such demolition or alteration would be inappropriate for and inconsistent with the effectuation of the purposes of this chapter, with due consideration for the factors hereinabove set forth in this subdivision b.

c. In making the determination referred to in subdivision a of this section with respect to any application for a permit to construct, reconstruct, alter or demolish any improvement on a landmark site, other than a landmark, the commission shall consider (1) the effects of the proposed work in creating, changing, destroying or affecting the exterior architectural features of the improvement upon which such work is to be done, (2) the relationship between such exterior architectural features, together with such effects, and the exterior architectural features of the landmark, and (3) the effects of the results of such work upon the protection, enhancement, perpetuation and use of the landmark on such site. In appraising such effects and relationship, the commission shall consider, in addition to any other pertinent matters, the factors mentioned in paragraph two of subdivision b of this section.

d. In making the determination referred to in subdivision a of this section with respect to an application for a permit to alter, reconstruct or demolish a landmark, the commission shall consider the effects of the proposed work upon the protection, enhancement, perpetuation and use of the exterior architectural features of such landmark which cause it to possess a special character or special historical or aesthetic interest or value.

e. In making the determination referred to in subdivision a of this section with respect to an application for a permit to alter, reconstruct or demolish an improvement containing an interior landmark, the commission shall consider the effects of the proposed work upon the protection, enhancement, perpetuation and use of the interior architectural features of such interior landmark which cause it to possess a special character or special historical or aesthetic interest or value.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-6.0 added LL 46/1965 § 2

Amended LL 71/1973 § 8

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-308

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-308 Procedure for determination of request for certificate of appropriateness.

The commission shall hold a public hearing on each request for a certificate of appropriateness. Except as otherwise provided in section 25-309 of this chapter, the commission shall make its determination as to such request within ninety days after filing thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-7.0 added LL 46/1965 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-309

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-309 Request for certificate of appropriateness authorizing demolition, alterations or reconstruction on ground of insufficient return.

a. (1) Except as otherwise provided in paragraph two of this subdivision a, in any case where an application for a permit to demolish any improvement located on a landmark site or in an historic district or containing an interior landmark is filed with the commission, together with a request for a certificate of appropriateness authorizing such demolition, and in any case where an application for a permit to make alterations to or reconstruct any improvement on a landmark site or containing an interior landmark is filed with the commission, and the applicant requests a certificate of appropriateness for such work, and the applicant establishes to the satisfaction of the commission that:

(a) the improvement parcel (or parcels) which includes such improvement, as existing at the time of the filing of such request, is not capable of earning a reasonable return; and

(b) the owner of such improvement:

(1) in the case of an application for a permit to demolish, seeks in good faith to demolish such improvement immediately (a) for the purpose of constructing on the site thereof with reasonable promptness a new building or other income-producing facility, or (b) for the purpose of terminating the operation of the improvement at a loss; or

(2) in the case of an application for a permit to make alterations or reconstruct, seeks in good faith to alter or reconstruct such improvement, with reasonable promptness, for the purpose of increasing the return therefrom;

the commission, if it determines that the request for such certificate should be denied on the basis of the applicable

standards set forth in section 25-307 of this chapter, shall, within ninety days after the filing of the request for such certificate of appropriateness, make a preliminary determination of insufficient return.

(2) In any case where any application and request for a certificate of appropriateness mentioned in paragraph one of this subdivision a is filed with the commission with respect to an improvement, the provisions of this section shall not apply to such request if the improvement parcel which includes such improvement has received, for three years next preceding the filing of such request, and at the time of such filing continues to receive, under any provision of law (other than this chapter or section four hundred fifty-eight, four hundred sixty or four hundred seventy-nine of the real property tax law), exemption in whole or in part from real property taxation; provided, however, that the provisions of this section shall nevertheless apply to such request if such exemption is and has been received pursuant to section four hundred twenty-a, four hundred twenty-two, four hundred twenty-four, four hundred twenty-five, four hundred twenty-six, four hundred twenty-seven, four hundred twenty-eight, four hundred thirty, four hundred thirty-two, four hundred thirty-four, four hundred thirty-six, four hundred thirty-eight, four hundred forty, four hundred forty-two, four hundred forty-four, four hundred fifty, four hundred fifty-two, four hundred sixty-two, four hundred sixty-four, four hundred sixty-eight, four hundred seventy, four hundred seventy-two or four hundred seventy-four of the real property tax law and the applicant establishes to the satisfaction of the commission, in lieu of the requirements set forth in paragraph one of this subdivision a, that:

(a) The owner of such improvement has entered into a bona-fide agreement to sell an estate of freehold or to grant a term of at least twenty years in such improvement parcel, which agreement is subject to or contingent upon the issuance of the certificate of appropriateness or a notice to proceed;

(b) The improvement parcel which includes such improvement, as existing at the time of the filing of such request, would not, if it were not exempt in whole or in part from real property taxation, be capable of earning a reasonable return;

(c) Such improvement has ceased to be adequate, suitable or appropriate for use for carrying out both (1) the purposes of such owner to which it is devoted and (2) those purposes to which it had been devoted when acquired unless such owner is no longer engaged in pursuing such purposes; and

(d) The prospective purchaser or tenant:

(1) In the case of an application for a permit to demolish seeks and intends, in good faith either to demolish such improvement immediately for the purpose of constructing on the site thereof with reasonable promptness a new building or other facility; or

(2) In the case of an application for a permit to make alterations or reconstruct, seeks and intends in good faith to alter or reconstruct such improvement, with reasonable promptness.

b. In the case of an application made pursuant to paragraph one of subdivision a of this section by an applicant not required to establish the conditions specified in paragraph two of such subdivision, as promptly as is practicable after making a preliminary determination as provided in paragraph one of such subdivision a, the commission, with the aid of such experts as it deems necessary, shall endeavor to devise, in consultation with the applicant, a plan whereby the improvement may be (1) preserved or perpetuated in such manner or form as to effectuate the purposes of this chapter, and (2) also rendered capable of earning a reasonable return.

c. Any such plan may include, but shall not be limited to, (1) granting of partial or complete tax exemption, (2) remission of taxes and (3) authorization for alterations, construction or reconstruction appropriate for and not inconsistent with the effectuation of the purposes of this chapter.

d. In any case where the commission formulates any such plan, it shall mail a copy thereof to the applicant promptly and in any event within sixty days after giving notice of its preliminary determination of insufficient return.

The commission shall hold a public hearing upon such plan.

e. (1) If the commission, after holding a public hearing pursuant to subdivision d of this section, determines that a plan which it has formulated, consisting only of tax exemption and/or remission of taxes, meets the standards set forth in subdivision b of this section, as such plan was originally formulated, or with such modifications as the commission deems necessary or appropriate, the commission shall deny the request of the applicant for a certificate of appropriateness and shall approve such plan, as originally formulated, or with such modifications.

(2) Such plan, as so approved, shall set forth the extent of tax exemption and/or remission of taxes deemed necessary by the commission to meet such standards.

(3) The commission shall promptly mail a certified copy of such approved plan to the applicant and shall promptly transmit a certified copy thereof to the tax commission. Upon application made by the owner of such improvement pursuant to the provisions of paragraph five of this subdivision e, the tax commission shall grant, for the fiscal year next succeeding the date of approval of such plan, the tax exemption and/or remission of taxes provided for therein.

(4) In accordance with procedures prescribed by the regulations of the commission, it shall determine, upon application by the owner of such improvement made in advance of each succeeding fiscal year, the amount of tax exemption and/or remission of taxes, if any, which it deems necessary, as a renewal of such plan for the ensuing year, to meet the standards set forth in subdivision b of this section, and shall promptly mail a certified copy of any approved renewal of such plan to the applicant and shall promptly transmit a certified copy of such renewal to the tax commission. Upon application made by the owner of such improvement pursuant to the provisions of paragraph five of this subdivision e, the tax commission shall grant, for such fiscal year, the tax exemption and/or remission of taxes specified in such determination.

(5) Where any such plan or a renewal thereof is approved by the commission, pursuant to the provisions of the preceding paragraphs of this subdivision e, prior to January first next preceding the fiscal year to which the tax benefits of such plan or renewal thereof are applicable, the owner shall not be entitled to such benefits for such fiscal year unless he or she files an application therefor with the tax commission between February first and March fifteenth, both dates inclusive, next preceding such fiscal year. Where any such plan or a renewal thereof is approved by the commission between January first and June thirtieth, both dates inclusive, next preceding the fiscal year to which the tax benefits of such plan or renewal thereof are applicable, the owner shall not be entitled to such benefits for such fiscal year unless he or she files an application therefor with the tax commission on or before August first of such fiscal year.

f. (1) In any case where the commission determines, after holding a public hearing pursuant to subdivision d of this section, that a plan which it has formulated, consisting in whole or in part of any proposal other than tax exemption and/or remission of taxes, meets the standards set forth in subdivision b of this section, as such plan was originally formulated, or with such modifications as the commission deems necessary or appropriate, the commission shall approve such plan, as originally formulated, or with such modifications, and shall promptly mail a copy of same to the applicant.

(2) The owner of the improvement proposed to be benefited by such plan mentioned in paragraph one of this subdivision f may accept or reject such plan by written acceptance or rejection filed with the commission. If such an acceptance is filed, the commission shall deny the request of such applicant for a certificate of appropriateness. If a new application for a permit from the department of buildings and a new request for a certificate of appropriateness are filed, which application and request conform with such proposed plan, the commission shall grant such certificate as promptly as is practicable and in any event within thirty days after such filing.

(3) If such accepted plan consists in part of tax exemption and/or remission of taxes, the provisions of paragraphs two, three, four and five of subdivision e of this section shall govern the granting of such tax exemption

and/or remission of taxes.

g. (1) Except in a case where the applicant is required to establish the conditions set forth in paragraph two of subdivision a of this section, if

(a) The commission does not formulate and mail a plan pursuant to the provisions of subdivisions b, c, and d of this section within the period of time prescribed by such subdivision d; or

(b) The commission does not approve a plan pursuant to the provisions of subdivision e or f of this section within sixty days after the mailing of such plan to the applicant; or

(c) A plan approved by the commission pursuant to the provisions of paragraph one of subdivision f of this section is rejected by the owner of such improvement pursuant to the provisions of paragraph two of such subdivision;

the commission may, within ten days after expiration of the applicable period referred to in subparagraphs (a) and (b) of this paragraph one, or within ten days after the filing of a rejection of a plan pursuant to paragraph two of subdivision f of this section, as the case may be, transmit to the mayor a written recommendation that the city acquire a specified appropriate protective interest in the improvement parcel which includes the improvement with respect to which the request for a certificate of appropriateness was filed, and shall promptly notify the applicant of such action.

(2) If, within ninety days after transmission of such recommendation, or, if no such recommendation is transmitted, within ninety days after the expiration of the period herein prescribed for such transmission, the city does not:

(a) Give notice, pursuant to section three hundred eighty-two of the charter, of an application to condemn such interest or any other appropriate protective interest agreed upon by the mayor and the commission; or

(b) Enter into a contract with the owner of such improvement parcel to acquire such interest, as so recommended or agreed upon;

the commission shall promptly grant, issue and forward to the owner, in lieu of the certificate of appropriateness requested by the applicant, a notice to proceed.

h. No plan which consists in whole or in part of the granting of a partial or complete tax exemption or remission of taxes pursuant to the provisions of this chapter shall be deemed to have been approved by the commission unless it is also approved by the mayor and council within the period of time prescribed by this section for approval of such plan by the commission.

i. (1) In any case where the applicant is required to establish the conditions set forth in paragraph two of subdivision a of this section, as promptly as is practicable after making a preliminary determination with respect to such conditions, as provided in paragraph one of subdivision a of this section, and within one hundred and eighty days after making such preliminary determination, the commission, alone or with the aid of such persons and agencies as it deems necessary and whose aid it is able to enlist, shall endeavor to obtain a purchaser or tenant (as the case may be) of the improvement parcel or parcels with respect to which the application has been made, which purchaser or tenant will agree, without condition or contingency relating to the issuance of a certificate of appropriateness or notice to proceed and subject to the provisions of paragraph three of this subdivision i, to purchase or acquire an interest identical with that proposed to be acquired by the prospective purchaser or tenant whose agreement is the basis of the application, on reasonably equivalent terms and conditions.

(2) The applicant shall, within a reasonable time after notice by the commission that it has obtained such a purchaser or tenant, which notice shall be served within the period of one hundred and eighty days provided by paragraph one of this subdivision i, enter into such agreement to sell or lease (as the case may be) with the purchaser or

tenant so obtained. Such notice shall specify a date for the execution of such agreement, which may be postponed by the commission at the request of the applicant.

(3) The provisions of this section shall not, after the consummation of such agreement, apply to such purchaser or tenant or to the heirs, successors or assigns of such purchaser or tenant.

(4) (a) If, within the one hundred eighty day period following the commission's preliminary determination pursuant to paragraph one of subdivision a of this section, the commission shall not have succeeded in obtaining a purchaser or tenant of the improvement parcel, pursuant to paragraph one of this subdivision i, or if, having obtained such a purchaser or tenant, such purchaser or tenant fails within the time provided in paragraph two of this subdivision i, to enter into the agreement provided for by such paragraph two, the commission, within twenty days after the expiration of the one hundred eighty day period provided for in paragraph one of this subdivision i, or within twenty days after the date upon which a purchaser or tenant obtained by the commission pursuant to the provisions of such paragraph one fails to enter into the agreement provided for by said paragraph, whichever of said dates later occurs, may transmit to the mayor a written recommendation that the city acquire a specified appropriate protective interest in the improvement parcel or parcels which include the improvement or are part of the landmark site with respect to which the request for a certificate of appropriateness was filed, and shall promptly notify the applicant of such action.

(b) If, within ninety days after transmission of such recommendation, or, if no such recommendation is transmitted, within ninety days after the expiration of the period herein prescribed for such transmission, the city does not give notice, pursuant to section three hundred eighty-two of the charter, of an application to condemn such interest or any other appropriate protective interest agreed upon by the mayor and the commission, or does not enter into a contract with the owner of such improvement parcel to acquire such interest, as so recommended and agreed upon; the commission shall promptly grant, issue and forward to the owner, in lieu of the certificate of appropriateness requested by the applicant, a notice to proceed.

(5) Such notice to proceed shall authorize the work of demolition, alteration, and/or reconstruction sought with respect to the improvement parcel or parcels concerning which the application was made, only if such work (a) is undertaken and performed by the purchaser or tenant specified pursuant to the provisions of paragraph two of subdivision a of this section, in the application, or a bona-fide assignee, successor, lessee or sub-lessee of such purchaser or tenant (other than the owner who made application therefor), and (b) is undertaken and performed with reasonable promptness after the issuance of such notice to proceed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd h amended L.L. 71/1991 § 3 eff. July 19, 1991

DERIVATION

Formerly § 207-8.0 added LL 46/1965 § 2

Sub a par 1 amended LL 71/1973 § 9

CASE NOTES FROM FORMER SECTION

¶ 1. Matter of designation of complex of buildings used as a home for elderly mariners as a landmark was remanded for further consideration where lower court was not supplied with sufficient facts on which to render a satisfactory determination as to such questions as whether the preservation of the charity's buildings would seriously interfere with the use of the property, whether the buildings were capable of conversion to a useful purpose without excessive cost and whether the cost of maintaining them without use would entail serious expenditure.-Matter of the

Trustees of the Sailors' Snug Harbor, 29 A.D. 2d 376, 288 N.Y.S. 2d 314 [1968].

¶ 2. Test for constitutional application of landmarks law to a charity is whether maintenance of the landmark either physically or financially prevents or seriously interferes with carrying out the charitable purpose.-Id.

¶ 3. The omission of specific words authorizing alterations to non-landmark buildings from this section 207-8.0(a)(1) was a simple oversight and it was the legislative intent to give the Commission power to afford lesser relief than the permission to demolish.-1025 Fifth Ave. v. Marymount, 123 Misc. 2d 756 [1983].

CASE NOTES

¶ 1. A Landmarks Preservation Commission's Notice of Approval indicating its approval of alterations to the interior of a theatre, subject to certain conditions, did not give rise to the right of judicial review. There is no "final determination" until a certificate of appropriateness is issued. Committee to Save the Beacon Theatre v City of New York, 146 A.D.2d 397, 541 N.Y.S.2d 364 (1st Dept. 1989).

NYC Administrative Code 25-310

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-310 Regulation of minor work.

a. (1) Except as otherwise provided in section 25-312 of this chapter, it shall be unlawful for any person in charge of an improvement located on a landmark site or in an historic district or containing an interior landmark to perform any minor work thereon, or to cause or permit such work to be performed, and for any other person to perform any such work thereon or cause same to be performed, unless the commission has issued a permit, pursuant to this section, authorizing such work.

(2) It shall be unlawful for any person in charge of any such improvement to maintain same or cause or permit same to be maintained in the condition created by any work done in violation of the provisions of paragraph one of this subdivision a.

b. The owner of an improvement desiring to obtain such a permit, or any person authorized by the owner to perform such work, may file with the commission an application for such permit, which shall include such description of the proposed work, as the commission may prescribe. The applicant shall submit such other information with respect to the proposed work as the commission may from time to time require. The commission shall promptly transmit such application to the department of buildings, which shall, as promptly as is practicable, certify to the commission whether a permit for such proposed work, issued by such department, is required by law. If such department certifies that such a permit is required, the commission shall deny such application, and shall promptly give notice of such determination to the applicant. If such department certifies that no such permit is required, the commission shall determine such application as hereinafter provided.

c. (1) The commission shall determine:

(a) Whether the proposed work would change, destroy or affect any exterior architectural feature of an improvement located on a landmark site or in an historic district or interior architectural feature of an improvement containing an interior landmark; and

(b) If such work would have such effect, whether judged by the standards set forth in subdivisions b, c, d and e of section 25-307 of this chapter with respect to an improvement of similar classification hereunder, such work would be appropriate for and consistent with the effectuation of the purposes of this chapter.

(2) If the commission determines the question set forth in subparagraph (a) of paragraph one of this subdivision c in the negative, or determines the question set forth in subparagraph (b) of such paragraph in the affirmative, it shall grant such permit, and it shall deny such permit if it determines such question set forth in subparagraph (a) in the affirmative and determines such question set forth in subparagraph (b) in the negative.

d. The procedure of the commission in making its determination with respect to any such application shall be as prescribed in subparagraph two of subdivision a of section 25-306 of this chapter, except that any period of thirty days referred to in such subparagraph shall, for the purposes of this subdivision d, be deemed to be twenty days.

e. The provisions of this section shall be inapplicable to any improvement mentioned in subdivision a of section 25-318 of this chapter and to any city-aided project.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-9.0 added LL 46/1965 § 2

Amended LL 71/1973 § 10

CASE NOTES

¶ 1. Landlord seeks access to apartments in a premises designate as a landmark to install new windows. There is no dispute that windows need replacement. It is duty of landlord to preserve or enhance landmarks pursuant to NYC Ad Cd § 205-1.0(b). Minor work such as window replacement requires a permit. (NYC Ad Cd § 207-9.0(a)(1)). Notices are not required to be served. Improved Dwelling Co. v. Flannery, 136 Misc. 2d 888 [1987].

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NYC Administrative Code 25-311

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-311 Maintenance and repair of improvements.

a. Every person in charge of an improvement on a landmark site or in an historic district shall keep in good repair (1) all of the exterior portions of such improvement and (2) all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair.

b. Every person in charge of an improvement containing an interior landmark shall keep in good repair (1) all portions of such interior landmark and (2) all other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay or become damaged or otherwise fall into a state of disrepair.

c. Every person in charge of a scenic landmark shall keep in good repair all portions thereof.

d. The provisions of this section shall be in addition to all other provisions of law requiring any such improvement to be kept in good repair.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-10.0 added LL 46/1965 § 2

Amended LL 71/1973 § 11

CASE NOTES

¶ 1. The statute can be used by the City to obtain an order directing repairs of the exterior of a landmark building, and directing repairs of any portion of the interior which, if not properly maintained, would cause damage to or deterioration of the exterior. The question of whether or not the building is in good repair is a matter to be determined by the Landmarks Preservation Commission. The court will defer to the agency when the decision falls under the purview of the agency's expertise, so long as the agency's determination is reasonable. City of New York v. 10-12 Cooper Square, Inc., 7 Misc.3d 253, 793 N.Y.S.2d 688 (Sup.Ct. New York Co. 2004).

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NYC Administrative Code 25-312

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-312 Remedying of dangerous conditions.

a. In any case where the department of buildings, the fire department or the department of health and mental hygiene, or any officer or agency thereof, or any court on application or at the instance of any such department, officer or agency, shall order or direct the construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district or containing an interior landmark, or the performance of any minor work upon such improvement, for the purpose of remedying conditions determined to be dangerous to life, health or property, nothing contained in this chapter shall be construed as making it unlawful for any person, without prior issuance of a certificate of no effect on protected architectual features or certificates of appropriateness or permit for minor work pursuant to this chapter, to comply with such order or direction.

b. The department of buildings, fire department or department of health and mental hygiene, as the case may be, shall give the commission as early notice as is practicable, of the proposed issuance or issuance of any such order or direction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. a, b amended L.L. 22/2002 § 54, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

DERIVATION

Formerly § 207-11.0 added LL 46/1965 § 2

Sub a amended LL 71/1973 § 12

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-313

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-313 Public hearings; conferences.

a. The commission shall give notice of any public hearing which it is required or authorized to hold under the provisions of this chapter by publication in the City Record for at least ten days immediately prior thereto.

The owner of any improvement parcel on which a landmark or a proposed landmark is situated or which is a part of a landmark site or proposed landmark site or which contains an interior landmark or proposed interior landmark, or any property which includes a scenic landmark or proposed scenic landmark shall be given notice of any public hearing relating to the designation of such proposed landmark, landmark site, interior landmark or scenic landmark, the amendment to any designation thereof or the proposed rescission of any designation or amendment thereto. Such notice may be served by the commission by registered mail addressed to the owner or owners at his or her or their last known address or addresses, as the same appear in the records of the office of the commissioner of finance or if there is no name in such records, such notice may be served by ordinary mail addressed to "Owner" at the street address of the improvement parcel or property in question. Failure by the commission to give such notices shall not invalidate or affect any proceedings pursuant to this chapter relating to such improvement parcel or property.

b. At any such public hearing, the commission shall afford a reasonable opportunity for the presentation of facts and the expression of views by those desiring to be heard, and may, in its discretion, take the testimony of witnesses and receive evidence; provided, however, that the commission, in determining any matter as to which any such hearing is held, shall not be confined to consideration of the facts, views, testimony or evidence submitted at such hearing.

c. The commission may delegate to any member or members thereof the power to conduct any such public hearing and to hold any conference required to be held under the provisions of sections 25-306 and 25-310 of this

chapter.

d. The commission, may, in its discretion, direct that notice of any such public hearing on a request for a certificate of appropriateness, or on any plan formulated by the commission in relation thereto, be given by the applicant to such owners of property in the neighborhood of the improvement or improvement parcel to which such request relates, as the commission deems proper. When so directed, the applicant shall mail a notice of such hearing to such owners, at their last known addresses, as the same appear in the records of the office of the commissioner of finance, and shall likewise mail a notice of such hearing to persons who have filed written requests for such notice with the commission. A reasonable period of time, as prescribed by the regulations of the commission, shall be afforded the applicant for giving notice of such hearing to such owners and persons. Any failure to give or receive such notice shall not invalidate any such hearing or any determination made by the commission with respect to such request for a certificate or with respect to such plan.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-12.0 added LL 46/1965 § 2

Sub a amended LL 71/1973 § 13

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NYC Administrative Code 25-314

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-314 Extension of time for action by commission.

Whenever, under the provisions of this chapter, the commission is required or authorized, within a prescribed period of time, to make any determination or perform any act in relation to any request for a certificate of no effect on protected architectural features, a certificate of appropriateness or a permit for minor work, the applicant may extend such period of time by his or her written consent filed with the commission.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-13.0 added LL 46/1965 § 2

Amended LL 71/1973 § 14

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-315

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-315 Determinations of the commission; notice thereof.

a. Any determination of the commission granting or denying a certificate of no effect on protected architectural features, a certificate of appropriateness or a permit for minor work shall set forth the reasons for such determination.

b. The commission shall promptly give notice of any such determination, and of any preliminary determination of insufficient return made pursuant to paragraph one of subdivision a of section 25-309 of this chapter, to the applicant. Such notice shall include a copy of such determination.

c. Subject to the provisions of section 25-304 of this chapter, any determination of the commission granting a certificate of no effect on protected architectural features, a certificate of appropriateness or a permit for minor work may prescribe conditions under which the proposed work shall be done, in order to effectuate the purposes of this chapter, and may include recommendations by the commission as to the performance of such work, provided that the provisions of this subdivision shall not apply to any notice to proceed granted pursuant to the provisions of subdivisions g and i of section 25-309 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-14.0 added LL 46/1965 § 2

Amended LL 71/1973 § 15

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-316

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-316 Transmission of certificates and applications to proper city agency.

In any case where a certificate of no effect on protected architectural features, certificate of appropriateness or notice to proceed is granted by the commission to an applicant who has filed with the commission a copy of an application for a permit from the department of buildings, the commission shall transmit such certificate or a copy of such notice to the department of buildings. In any case where any such certificate or notice is granted to an applicant who has filed an application for a special permit with the city planning commission or the board of standards and appeals pursuant to article seven of the zoning resolution, the commission shall transmit such certificate or a copy of such notice to the planning commission or the board of standards and appeals, as the case may be.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-15.0 added LL 46/1965 § 2

Amended LL 71/1973 § 16

NYC Administrative Code 25-317

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-317 Criminal punishments and fines.

a. Any person who violates any provision of subdivision a of section 25-305 of this chapter or any order issued by the chair with respect to such provisions shall be guilty of a misdemeanor and shall be punished by a fine of not more than ten thousand dollars and not less than five thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

b. Any person who violates any provision of subdivision a of section 25-310 of this chapter or any provision of section 25-311 or any order issued by the chair with respect to such provisions shall be punished, for a first offense, by a fine of not more than one thousand dollars and not less than five hundred dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment, and shall be punished for a second or subsequent offense, by a fine of not more than five thousand dollars or less than two thousand five hundred dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

c. Any person who willfully makes any false statement or an omission of material fact in an application or request to the commission for a certificate, permit or other approval or in any document submitted to the commission certifying the correction of a violation, shall be punished by a fine of not more than five thousand dollars or less than one thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

d. For the purposes of this subdivision, each day during which there exists any violation of the provisions of paragraph three of subdivision a of section 25-305 of this chapter or paragraph two of subdivision a of section 25-310 of this chapter or any violation of the provisions of section 25-311 of this chapter or any order issued by the chair with respect to such provisions shall constitute a separate violation.

HISTORICAL NOTE

Section repealed and added L.L. 1/1998 § 2, eff. July 5, 1998.

DERIVATION

Formerly § 207-16.0 added L.L. 46/1965 § 2, reconstituted § 25-317 added chap 907/1985 § 1.

NYC Administrative Code 25-317.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-317.1 Civil penalties.

a. Any person who violates any provision of sections 25-305, 25-310 or 25-311 or subdivision c of section 25-317 of this chapter or any order issued by the chair with respect to such provisions shall be liable for a civil penalty which may be recovered by the corporation counsel in a civil action in any court of competent jurisdiction. Such civil penalty shall be determined as follows:

(1) The defendant shall be liable for a civil penalty of up to the fair market value of the improvement parcel, with or without the improvement, whichever is greater, where in violation of such provision or order:

(a) all or substantially all of an improvement on a landmark site or within a historic district has been demolished;

(b) work has been performed or a condition created or maintained which significantly impairs the structural integrity of an improvement on a landmark site or within a historic district;

(c) work has been performed or a condition created or maintained which results in the destruction, removal or significant alteration of more than fifty percent of the square footage of two facades of an improvement on a landmark site or within a historic district, including party and sidewalls; or

(d) the defendant has failed to take action to prevent any condition described in subparagraph a, b or c of this paragraph from occurring.

(2) Where, in violation of such provision or order, work is performed or a condition is created or maintained

which results in the destruction, removal or significant alteration of a significant portion of the protected features identified in the designation report of an interior landmark, the defendant shall be liable for a civil penalty equal to two times the estimated cost of replicating the protected features that were demolished, removed or altered.

(3) All other violations. The defendant shall be liable for a civil penalty of not more than five thousand dollars.

(4) For the purposes of this subdivision, each day during which there exists any violation of the provisions of paragraph three of subdivision a of section 25-305 of this chapter or paragraph two of subdivision a of section 25-310 of this chapter or subdivision a, b or c of section 25-311 of this chapter or any order issued by the chair with respect to such provisions shall constitute a separate violation.

b. In addition to or as an alternative to any of the remedies and penalties provided in this chapter, any person who violates any provision of sections 25-305, 25-310 or 25-311 or subdivision c of section 25-317 of this chapter or any order issued by the chair with respect to such provisions shall be liable for a civil penalty which may be recovered in an administrative proceeding before the office of administrative trials and hearings, the environmental control board or other administrative tribunal having jurisdiction as hereinafter provided.

(1) An administrative proceeding for civil penalties shall be commenced by the service of a notice of violation in accordance with the applicable law and rules governing the procedures of the administrative tribunal before which the notice of violation is returnable or as otherwise provided by the rules of the commission. The notice of violation shall identify the allegedly illegal conditions or work with reasonable specificity. As used in this subdivision, the term "reasonable specificity" shall mean a description of work or conditions, reasonably described given the circumstances, sufficient to inform a reasonable person that (1) work has been or is being done without an appropriate approval from the commission, (2) conditions have been created or are being maintained in violation of this chapter, or (3) there has been a failure to take action to prevent conditions that are in violation of this chapter. Such administrative tribunal shall have the power to impose civil penalties in accordance with this chapter. A judgment of an administrative tribunal imposing civil penalties may be enforced by the commencement of a civil action or proceeding in a court or as otherwise authorized by the applicable law governing the procedures of such administrative tribunal. Prior to serving a notice of violation, the chair shall serve a warning letter upon a respondent either personally or by mail in the manner provided by the rules of the commission. The warning letter shall inform the respondent that the chair believes the respondent has violated the provisions of this chapter, shall describe generally the allegedly illegal conditions and/or activities, shall warn the respondent that the law authorizes civil penalties for such violations, and shall provide the respondent with a grace period for removing or applying for a permit to legalize or otherwise address the allegedly illegal conditions. No such warning letter shall be required prior to the service of a notice of violation where (i) the subject violation is a second or subsequent offense, (ii) the subject violation is alleged to be an intentional violation, or (iii) the chair is seeking civil penalties for failure to comply with a stop work order, issued pursuant to this chapter.

(2) Except as otherwise specifically provided in this chapter, where a respondent has been found liable for or admitted liability to a violation of this chapter in an administrative proceeding, a civil penalty for such violation shall be imposed in accordance with the schedule set forth below.

(a) Type A and Type B violations. (i) First offense. The respondent shall be liable for a civil penalty of not more than five thousand dollars.

(ii) Second and subsequent offenses. The respondent shall be liable for a civil penalty of not more than two hundred fifty dollars a day for each day that a condition underlying a prior violation continues to exist, measured from the date the respondent was found liable for or admitted liability to the prior violation, but in no event shall the civil penalty be less than the maximum possible penalty for a first offense.

(b) Type C violation. (i) First offense. The respondent shall be liable for a civil penalty of not more than five hundred dollars.

(ii) Second and subsequent offenses. The respondent shall be liable for a civil penalty of not more than fifty dollars a day for each day that a condition underlying a prior violation continues to exist, measured from the date the respondent was found liable for or pled guilty to the prior violation, but in no event shall the civil penalty be less than the maximum possible penalty for a first offense.

(3) Notwithstanding the penalty schedule set forth above, the chair may, in his or her discretion, for good cause shown, recommend that a lesser or no civil penalty be imposed on a respondent in an administrative proceeding.

(4) Restrictions on service of notice of violation for second or subsequent offense. (a) The chair shall not serve a notice of violation for a second or subsequent offense unless (i) more than twenty-five days have elapsed since the respondent was found liable or admitted liability in the prior proceeding and (ii) where the respondent in the prior proceeding has submitted an application to the commission for an appropriate approval to legalize or to undertake the work necessary to cure the condition underlying the prior proceeding, more than thirty days have elapsed since such application has been disapproved or denied in whole or in part or if granted, such approval by its terms has expired. If the respondent has filed more than one such application with the commission, the thirty day period shall commence after the first such application has been disapproved or denied in whole or in part or, if granted, by its terms has expired.

(b) Nothing in this subdivision shall prohibit the chair, subject to the rules of the administrative tribunal having jurisdiction over the proceeding, from serving an amended notice of violation for the purpose of clarifying the allegedly illegal conditions referred to in the prior notice of violation, or from serving a subsequent notice of violation that alleges separate violations of this chapter. An amended notice of violation shall be returnable on the same date and before the same administrative body as the initial notice of violation.

(5) Multiple violations incurred for the same work. If work, reasonably identified in a notice of violation, was done without an appropriate approval from the commission, the total amount of any civil penalty for such work shall be determined by, to the extent feasible, separately considering and assessing a penalty for each type of work and/or each distinct effect on the protected features of the landmark, interior landmark or improvement in an historic district. In no event shall the civil penalty exceed five thousand dollars for a first offense. Where the respondent is the owner, separate penalties shall not be assessed for each type of work and/or each distinct effect if the illegal work was performed during a period of time when the premises were leased to and under the control of a person other than the owner.

(6) Grace period. (a) No civil penalty shall be imposed in an administrative proceeding for a first violation if prior to the return date of the notice of violation, the respondent concedes liability for the violation and supplies the commission with proof, satisfactory to the commission, that the violation has been corrected. If the respondent makes any misrepresentation or omission of a material fact to the commission regarding the removal of the violation, the respondent shall be liable for a civil penalty of not more than ten thousand dollars.

(b) No civil penalty shall be imposed in an administrative proceeding for a first violation if prior to the return date of the notice of violation the respondent concedes liability for the violation and submits an application to the commission for approval to legalize or to undertake the work necessary to cure the violation.

(c) The provisions of this paragraph shall not apply to a second or subsequent offense or where the respondent is alleged to have violated a stop work order or where the respondent has after the issuance of a warning letter pursuant to paragraph one of subdivision (b) of section 25-317.1 applied for and received a permit to cure or otherwise address a violation, and the respondent has failed to cure the violation pursuant to the terms of such permit.

HISTORICAL NOTE

Section added L.L. 1/1998 § 2, eff. July 5, 1998.

Subd. a amended L.L. 18/2005 § 2, eff. Feb. 15, 2005.

Subd. b open par, pars (1), (2) amended L.L. 18/2005 § 3, eff. Feb. 15, 2005.

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Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-317.2 Violations of landmarks laws: enforcement.

a. Stop-work orders. (1) An order to stop work may be issued by the chair, or his or her authorized representative, at any time when the chair reasonably believes that work is being performed in violation of the provisions of this chapter. Each order issued by the chair shall have his or her signature affixed thereto, but the chair may authorize any subordinate to affix such signature.

(2) Such order may be given orally or in writing to a person in charge or apparently in charge of the improvement or involved in the work being performed thereon or may be served on the owner or person in charge of the improvement parcel as otherwise provided in the commission's rules. The police department and the department of buildings shall, upon the request of the chair, assist the chair in the enforcement of such orders. Where the order is given orally a written notice of such order shall be mailed to the person to whom the order was addressed or affixed to the premises where the violation occurred within forty-eight hours after service of such oral order.

b. Contents of orders. All stop work orders issued by the chair shall identify the allegedly illegal conditions or work with reasonable specificity. As used in this subdivision, the term "reasonable specificity" shall mean a description of work or conditions, reasonably described given the circumstances, sufficient to inform a reasonable person that (1) work has been or is being done without an appropriate approval from the commission or (2) conditions have been created or are being maintained in violation of this chapter. The order shall also identify the subject premises by the tax block and lot or street address, and shall be addressed to a person in charge of the improvement, or to a person who is alleged to have created the illegal conditions or performed, authorized overseen or permitted the illegal work. The chair may issue a separate order to each person who, as a result of the same condition or work, is alleged to have violated the provisions of this chapter.

c. In addition to any of the remedies or penalties provided for in this section, failure to comply with a stop work order shall be subject to the payment of a civil penalty in the sum of five hundred dollars for each day there is non-compliance, to be recovered in a civil action brought in the name of the chair or in an administrative proceeding before the office of administrative trials and hearings, the environmental control board or other administrative tribunal having jurisdiction.

d. Enforcement proceedings. (1) Upon the violation of any provision of this chapter, or the failure to comply with any stop-work order issued by the chair thereunder, or whenever any person is about to engage in or is engaging in any act or practice that may constitute a violation of any provision of this chapter, the chair may request the corporation counsel to institute all necessary actions and/or proceedings to restrain, correct or abate such violation or potential violation, to compel compliance with such order and/or to seek civil penalties pursuant to this chapter. The corporation counsel may institute such actions or proceedings as may be necessary and appropriate for such purposes.

(2) Such actions and proceedings may be instituted by the corporation counsel in the name of the city in any court of appropriate jurisdiction. In such actions or proceedings, the city may apply for restraining orders, preliminary injunctions or other provisional remedies, with or without notice.

e. Notice of violation; presumptive evidence. In any action or proceeding founded upon a claim by the chair that any law or rule enforceable by the commission has been violated, or that a lawful order issued by the chair has not been complied with, a notice of violation shall be presumptive evidence of any matter stated therein.

f. In addition to police officers, officers and employees of the commission and employees of other city agencies designated by the chair may enforce the provisions of this chapter and may issue summonses and appearance tickets returnable in the criminal court and notices of violation returnable before the environmental control board, the office of administrative trials and hearings or other administrative tribunal having jurisdiction.

HISTORICAL NOTE

Section added L.L. 1/1998 § 2, eff. July 5, 1998.

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Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-318 Reports by commission on plans for proposed projects.

a. Plans for the construction, reconstruction, alteration or demolition of any improvement or proposed improvement which:

(1) is owned by the city or is to be constructed upon property owned by the city; and

(2) is or is to be located on a landmark site or in an historic district or contains an interior landmark;

shall, prior to city action approving or otherwise authorizing the use of such plans with respect to securing the performance of such work, be referred by the agency of the city having responsibility for the preparation of such plans to the commission for a report. Such report shall be submitted to the mayor, the city council and to the agency having such responsibility and shall be published in the City Record within forty-five days after such referral.

b. (1) No officer or agency of the city whose approval is required by law for the construction or effectuation of a city-aided project shall approve the plans or proposal for, or application for approval of, such project, unless, prior to such approval, such officer or agency has received from the commission a report on such plans, proposal or application for approval.

(2) All such plans, proposals or applications for approval shall be referred to the commission for a report thereon before consideration of approval thereof is undertaken by any such officer or agency, and the commission shall submit its report to each such officer and agency and such report shall be published in the City Record within forty-five days after such referral.

c. Except as provided in subdivision d of section 25-303, where the commission so requests, plans for the construction, reconstruction, alteration or demolition of any landscape feature of a scenic landmark shall, prior to city action approving or otherwise authorizing the use of such plans with respect to securing the performance of such work, be referred by the agency of the city having responsibility for the preparation of such plans to the commission for a report. Such report shall be submitted to the mayor, the city council and to the agency having such responsibility and shall be published in the City Record within forty-five days after such referral. No such report shall recommend disapproval of any such plans where land contour work or earthwork is necessary in order to conform with applicable laws concerning regulation of lots, storm water disposal and water courses. The commissioner of parks and recreation may request an advisory report concerning work proposed to be performed on, or in the vicinity of, a scenic landmark, and such report shall be published in the City Record.

d. In addition to the powers conferred by this chapter, the commission shall have the powers specifically conferred upon it by chapter thirty-seven of the charter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. d added L.L. 77/1995 § 17, eff. Nov. 23, 1995.

DERIVATION

Formerly § 207-17.0 added LL 46/1965 § 2

Amended LL 71/1973 § 17

CASE NOTES

¶ 1. A plan for removal of the Central Park bandshell, which had been designated as a scenic landmark as well as a national historic landmark, had to be reviewed by the entire Landmarks Commission. Where the Commission had previously approved a plan but the revised plan differs materially from the prior plan, the change required full review rather than a mere letter from the chairperson of the Commission. London v. Art Commission of the City of New York, 190 A.D.2d 557, 593 N.Y.S.2d 233 (1st Dept. 1993).

¶ 2. It was a technical violation of the statute when the Parks Department approved a museum renovation plan prior to referral of the plan to the Landmarks Preservation Commission (LPC). However, the court held that the violation was of a minor procedural nature and did not render ineffective the Parks Department approval, particularly where the LPC ultimately approved the work and there was no claim that any work was done which was not within the scope of the LPC approval. Application of Metropolitan Museum Historic District Coalition v. De Montebello, 3 Misc.2d 1109(A), 2004 WL 1326706 (Sup.Ct. New York Co.).

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***** Current through December 2009 ****

NYC Administrative Code 25-319

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-319 Regulations.

The commission may from time to time promulgate, amend and rescind such regulations as it may deem necessary to effectuate the purposes of this chapter, including, but not limited to, regulations:

(a) for the protection, preservation, enhancement, and perpetuation and use of landmarks, interior landmarks, scenic landmarks and historic districts, subject to the provisions of section 25-304 of this chapter. Such regulations may apply to one or more historic districts or to one or more portions of an historic district and may vary from area to area in their provisions;

(b) relating to the determination of the earning capacity of improvement parcels by the commission pursuant to section 25-309 of this chapter;

(c) relating to the procedures of the commission in carrying out its functions, powers and duties under this chapter, including procedures for the giving of notice by the commission by mail or otherwise, where notice is required by this chapter; and

(d) relating to forms to be used in proceedings before the commission.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-18.0 added LL 46/1965 § 2

Sub a amended LL 71/1973 § 18

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-320

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-320 Investigations and reports.

The commission may make such investigations and studies of matters relating to the protection, enhancement, perpetuation or use of landmarks, interior landmarks, scenic landmarks and historic districts, and to the restoration of landmarks, interior landmarks, scenic landmarks and buildings in historic districts as the commission may, from time to time, deem necessary or appropriate for the effectuation of the purposes of this chapter, and may submit reports and recommendations as to such matters to the mayor and other agencies of the city. In making such investigations and studies, the commission may hold such public hearings as it may deem necessary or appropriate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-19.0 added LL 46/1965 § 2

Amended LL 71/1973 § 19

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-321

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-321 Applicability.

The provisions of this chapter shall be inapplicable to the construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic district or containing an interior landmark, or of any landscape feature of a scenic landmark, where a permit for the performance of such work was issued by the department of buildings, or, in the case of a landscape feature of a scenic landmark, where plans for such work have been approved, prior to the effective date of the designation, or amended or modified designation, pursuant to the provisions of section 25-303 of this chapter, first making the provisions of this chapter applicable to such improvement or landscape feature or to the improvement parcel or property in which such improvement or landscape feature is or is to be located.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 207-20.0 added LL 46/1965 § 2

Amended LL 71/1973 § 20

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-322

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 3 LANDMARKS PRESERVATION AND HISTORIC DISTRICTS

§ 25-322 Notification; lease notification.

a. Upon designation by the commission of any improvement or property as a landmark and of any landmark site, interior landmark or historic district, or any amendment of such designation, the owner of such improvement or property shall be notified in writing of such designation by the commission. Such notice shall be sent to the owner or owners at his or her or their last known address or addresses, as the same appear in the records of the office of the commissioner of finance or if there is no name in such records, such notice may be sent to the street address of the improvement parcel or property in question, addressed to "Owner". The failure by the commission to give notice of designation as required by this subdivision shall not invalidate or affect any actions or proceedings pursuant to this chapter relating to such improvement parcel or property, except that no action or proceeding pursuant to subparagraph d of this section shall be commenced until thirty days after such notice has been given.

b. It shall be the duty of the owner or person in charge of an improvement or property that is a landmark, interior landmark or is located on a landmark site or within an historic district to ensure that every lease or sublease, or renewal thereof, between the owner or such other person in charge as lessor and a nonresidential tenant as lessee and concerning such improvement or property shall contain a notice, conspicuously set forth therein, stating that in accordance with sections 25-305, 25-306, 25-309 or 25-310 of this chapter the lessee must obtain a permit from the commission before commencing any exterior or interior work on the improvement or property, except for ordinary repair and maintenance as that term is defined in subdivision r of section 25-302 of this chapter. When an improvement or property is designated a landmark, interior landmark or as part of an historic district during the term of a lease or sublease of all or a portion of such improvement or property, the lessor of such lease or sublease shall, within thirty days after being notified in writing of such designation by the commission or a person in charge, send a written notice as described

above to all nonresidential lessees of such lessor. Such notice shall be sent by certified or registered mail, return receipt requested to all nonresidential lessees on the first two floors of the improvement or property, and shall be sent to all other nonresidential lessees by any means reasonably designed to ensure that notice is given.

c. The commission shall promulgate such regulations as it deems necessary to comply with the provisions of this section, with respect to notice requirements in all nonresidential leases for buildings under its jurisdiction.

d. Any person who violates subdivision b of this section, or the regulations promulgated hereunder, shall be subject to a civil penalty of not more than five hundred dollars per violation which shall be returnable to the environmental control board.

HISTORICAL NOTE

Section added L.L. 92/1996 § 1, eff. Dec. 12, 1996.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-401

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-401 Authorization for the establishment of city business improvement districts.

Pursuant to the provisions of section nine hundred eighty of the general municipal law, business improvement districts shall be established and extended as hereinafter provided.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 96/1989 § 1

DERIVATION

Formerly § D3-1.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-402

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-402 Definitions.

As used in this chapter:

(a) "Average full valuation of taxable real property" means the valuation obtained by taking the assessed valuation of taxable real property in the district as it appears upon the last completed and four preceding assessment rolls of the city and dividing each by the applicable state equalization rate as determined by the state board of equalization and assessment pursuant to article twelve of the real property tax law for each of the assessment rolls and dividing the sum of the quotients thus obtained by five.

(b) "District" means a business improvement district established pursuant to this chapter.

(c) "District charge" means a levy imposed on behalf of a district as provided in the district plan.

(d) "District management association" means the association established pursuant to section 25-414 of this chapter.

(e) "District plan" or "plan" means a proposal as defined in section 25-405 of this chapter.

(f) "Owner" means owner of record.

(g) "Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 96/1989 § 2

DERIVATION

Formerly § D3-2.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-403

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-403 Contents of the district plan.

The district plan shall contain the following;

(a) a map of the district;

(b) the written report or reports of the city council containing:

(l) a description of the boundaries of the district proposed for establishment or extension in a manner sufficient to identify the lands included;

(2) a description of the present and proposed uses of such lands;

(3) the improvements proposed and the maximum cost thereof;

(4) the total annual amount proposed to be expended for improvements, maintenance and operation;

(5) the proposed source or sources of financing;

(6) the proposed time for implementation and completion of the district plan;

(7) any proposed rules and regulations to be applicable to the district;

(8) a list of the properties to be benefited, and a statement of the method or methods by which the expenses of a

district will be imposed upon benefited real property, in proportion to the benefit received by such property, to defray the cost thereof, including operation and maintenance. Notwithstanding any inconsistent provision of section 25-407 of this chapter, the plan may provide that all or any class or category of real property which is exempt by law from real property taxation and which would not benefit from the establishment or extension of the district may nevertheless be included within the boundaries of the district but such property shall not be subject to any district charge;

(9) a statement identifying the district management association for the district; and

(10) any other item or matter required to be incorporated therein by the city council.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 1 retroactive to Sept. 1, 1990

Section added L.L. 96/1989 § 3

DERIVATION

Formerly § D3-3.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-404

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-404 Powers of the city council.

Upon establishment of a district pursuant to the provisions of this chapter, the city council shall have authority to exercise the following powers with respect to such district, subject to the provisions of this chapter: (a) To provide for district improvements located on or within municipally or district owned or leased property which will restore or promote business activity in the district: (1) construction and installation of landscaping, planting, and park areas;

(2) construction of lighting and heating facilities;

(3) construction of physically aesthetic and decorative safety fixtures, equipment and facilities;

(4) construction of improvements to enhance security of persons and property within the district;

(5) construction of pedestrian overpasses, underpasses and connections between buildings;

(6) closing, opening, widening or narrowing of existing streets;

(7) construction of ramps, sidewalks, plazas, and pedestrian malls;

(8) rehabilitation or removal of existing structures as required;

(9) removal and relocation of utilities and vaults as required;

(10) construction of parking lot and parking garage facilities; and

(11) construction of fixtures, equipment, facilities and appurtenances as may enhance the movement, convenience and enjoyment of the public and be of economic benefit to surrounding properties such as: bus stop shelters; benches and street furniture; booths, kiosks, display cases, and exhibits; signs; receptacles; canopies; pedestrian shelters and fountains.

(b) To provide for the operation and maintenance of any district improvement;

(c) To provide for additional maintenance or other additional services required for the enjoyment and protection of the public and the promotion and enhancement of the district whether or not in conjunction with improvements authorized by this section, including:

(1) enhanced sanitation services;

(2) services promoting and advertising activities within the district;

(3) marketing education for businesses within the district;

(4) decorations and lighting for seasonal and holiday purposes; and

(5) services to enhance the security of persons and property within the district.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 2 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 4 (formerly § 25-403)

DERIVATION

Formerly § D3-4.0 added LL 2/1982 § 1

(Special provision, new plans LL 2/1982 § 3)

(LL 2/1982 § 3 amended LL 77/1982 § 2)

(LL 2/1982 § 3 repealed LL 78/1985 § 2)

Sub c amended LL 77/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-405

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-405 District plan.

(a) The mayor may provide for the preparation of a district plan, upon his or her own initiative, or at the request of an individual or agency designated by him or her, or at the request of the city council, or upon the written petition, signed and acknowledged, of (1) the owners of at least fifty-one percent of the assessed valuation of all the taxable real property within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the city, and (2) at least fifty-one percent of the owners of real property within the area included in the district proposed for establishment or extension.

(b) The establishment or extension of a district shall be based upon the district plan filed in the office of the city clerk, except as provided in subdivision (c) of this section.

(c) The district plan shall first be submitted to the city planning commission which shall forward a copy within five days to the city council and to the council member or members representing the council district or districts in which the proposed district is located, to the community board or boards for the community district or districts in which the proposed district is located, and to the respective borough board and borough president, if the plan involves properties located in two or more community districts. Each community board shall notify the public of the proposed plan in accordance with the requirements established by the city planning commission, and may conduct a public hearing and submit a written recommendation to the city planning commission not later than thirty days after receipt of the plan. The city planning commission shall review the plan and recommendations, and, after a public hearing, prepare a report. The city planning commission shall submit its report to the mayor, to the affected borough president, to the city council and to the council member or members representing the council district or districts in which the proposed district is located, together with copies of any recommendation of a community board, within sixty days from the date of expiration of the

community board's period for reviewing the plan and submitting recommendations. This report shall certify the city planning commission's unqualified approval, disapproval or qualified approval with recommendations for modifications of the district plan. A copy of this report together with the original district plan shall be transmitted for filing with the city clerk. In the event the city planning commission shall fail to submit its report within ninety-five days of receipt of the original district plan, it shall be required to immediately transmit the original plan to the city clerk for filing and no report of the city planning commission shall be necessary.

(d) All district plans shall conform with the requirements of this chapter. The mayor may determine that the plan or any part of the plan, shall be prepared by, or under the supervision of city officers and employees to be designated by the mayor, or by persons or firms to be employed for that purpose. Except as otherwise provided in this chapter, the expense incurred for the preparation of the plan or part of the plan shall be a city charge.

(e) If the city shall thereafter establish or extend the district or provide the improvements or additional services or contract for the required services, the expense incurred by the city for the preparation of the plan or any part of the plan shall be deemed to be part of the cost of the improvement, or the rendering of additional services, and the city shall be reimbursed in the amount paid, or the portion of that amount which the city council, at a public hearing held pursuant to this chapter, shall allocate against the district.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 3 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 5 (formerly § 25-404)

DERIVATION

Formerly § D3-5.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-406

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-406 Notice and hearing

(a) After the filing of the district plan in the office of the city clerk, the city council may adopt a resolution and shall enter the same in the minutes of its proceedings. This resolution shall contain a copy of the district plan, any report of the city planning commission or board, the fact that a district plan is on file in the city clerk's office for public inspection and the time when and the place where the city council will meet and hold a public hearing to hear all persons interested in the subject thereof.

(b) The resolution shall also contain a statement that any owner of real property, deemed benefited and therefore within the district, objecting to the plan must file an objection at the office of the city clerk within thirty days of the conclusion of the hearing on forms made available by the clerk, and, further, that if (1) owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the district proposed for establishment or extension, as shown upon the latest completed assessment roll of the city, or (2) at least fifty-one percent of the owners of benefited real property within the area included in the district proposed for establishment or extension, so file their objections, the district will not be established or extended.

(c) The city council shall cause a copy of the resolution or a summary thereof to be published at least once in the City Record or a newspaper in general circulation in the city, the first publication to be not less than ten nor more than thirty days before the day set for the hearing required by this section. In addition, not less than ten nor more than thirty days before the date set for the hearing, the city council shall cause a copy of the resolution or a summary thereof to be mailed to each owner of real property within the proposed district at the address shown on the latest city assessment roll, to such other persons as are registered with the city to receive tax bills concerning real property within the proposed district, and to the tenants of each building within the proposed district. If the city council publishes or mails a

summary of the resolution, such summary shall include the business address of the city clerk, a statement that copies of the resolution shall be made available free of charge to the public, the improvements proposed and the maximum cost thereof, the total annual amount proposed to be expended for improvements, maintenance and operation, and a statement indicating the rights of owners to object pursuant to subdivision (b) of this section.

(d) The resolution may further state the place, other than the city clerk's office, where the district plan may be inspected in advance of the hearing, if the city council determines that, in the public interest, any additional place of inspection is necessary or desirable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 4 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 6 (formerly § 25-405)

DERIVATION

Formerly § D3-6.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-407

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-407 Establishment or extension of the district.

(a) Not earlier than thirty days after the conclusion of the last day of the public hearing held pursuant to section 25-406 of this chapter, the city council shall determine:

(1) whether the notice of hearing for all hearings required to be held was published and mailed as required by law and is otherwise sufficient;

(2) except as otherwise provided in section 25-403 of this chapter, whether all the real property within the boundaries of the proposed district or extension will benefit from the establishment or extension of the district;

(3) whether all the real property benefited is included within the limits of the proposed district or extension; and

(4) whether the establishment or extension of the district is in the public interest.

(b) (1) If the city council shall determine the question of paragraph four of subdivision (a) of this section in the negative, or if the requisite number of owners shall have filed their objections as provided in section 25-406 of this chapter, the city council shall adopt a resolution disapproving the establishment or extension of the district, stating the reasons for its determination and enter the same in the minutes of its proceedings. Thereafter no plan for the establishment or extension of a district to include any part of the property proposed to be included in the disapproved district may be prepared as provided in section 25-405 of this chapter until the expiration of at least one year from the date of disapproval.

(2) If the city council shall find that notice was incorrectly or insufficiently given or that, except as otherwise provided in section 25-403 of this chapter, any part or portion of the real property within the boundaries of the proposed district or extension is not benefited thereby or that certain property benefited thereby has not been included therein, it shall call a further hearing at a definite place and time not less than ten nor more than thirty days after this determination. In the resolution calling such hearing, it shall specify the necessary changes, if any, to the boundaries of the proposed district or extension to be made in order that, except as otherwise provided in section 25-403 of this chapter, all of the real property and only that real property as is deemed benefited shall be included within the boundaries of the proposed district or extension. Such a further hearing shall also be required in the event that the city council proposes to amend the district plan to reduce improvements or services or provide additional improvements or services not included in the original plan prior to the establishment of the district. Notice of the further hearing shall be published and mailed in the manner provided in section 25-406 of this chapter, except that, where boundaries are to be altered, this notice shall also specify the manner in which it is proposed to alter the boundries*2 of the proposed district or extension. The further hearing shall be conducted in the same manner as the original hearing.

(c) If and when the city council shall determine in the affirmative all of the questions set forth in subdivision (a) of this section, and provided that the requisite number of owners shall not have objected as provided in section 25-406 of this chapter, it may adopt a local law approving the establishment or extension of the district as the boundaries shall be finally determined and the construction of the improvement or providing of the service in the district. Such local law shall become effective only upon compliance with section 25-408 of this chapter.

(d) Upon the recommendation of the district management association and after a public hearing, the city council may adopt a local law at any time prior to or after the establishment of a district to change the method of assessment as set forth in the plan. Notice of such public hearing and a description of the proposed change shall be given in the manner set forth in section 25-406 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 5 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 7 (formerly § 25-406)

DERIVATION

Formerly § D3-7.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

FOOTNOTES

2

[Footnote 2]: * So in original (word misspelled).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-408

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-408 Review by the state comptroller.

(a) The state comptroller shall review as provided in this section: (1) the establishment or extension of a district; and (2) the amendment of a district plan pursuant to subdivision (c) of section 25-410 of this chapter.

(b) Within twenty days after the adoption of a local law by the city council pursuant to section 25-407*3 or subdivision (c) of section 25-410 of this chapter the mayor shall forward the following information to the state comptroller at Albany, New York:

(1) an itemized statement of the then outstanding indebtedness of the city for all purposes, as evidenced by bonds, bond anticipation notes, capital notes, deferred payment notes and budget notes; the amount of budgetary appropriations for the payment of any outstanding indebtedness, whether or not appropriations have been realized as cash; the amount of indebtedness proposed to be contracted for the improvement, and the amounts, purposes and probable date of issuance of any bonds, bond anticipation notes, capital notes, deferred payments notes and budget notes which the city has authorized to be issued but which in fact have not been issued to date;

(2) a statement of the total assessed valuation of the taxable real property situated in the proposed district or extension of a district, as shown on the latest completed and four preceding assessment rolls of the city and of the amount of city real property taxes levied against such property in the preceding fiscal year;

(3) a statement of the average full valuation of the taxable real property of the city determined in accordance with the provisions of paragraph seven-a of section 2.00 of the local finance law; and

(4) a statement, the form of which shall be determined by the state comptroller, attesting that the provisions of this chapter have been met, signed and verified by the mayor.

(c) The state comptroller shall review the information submitted pursuant to paragraphs one, two and three of subdivision (b) above to determine that the tax and debt limitations provided in section 25-412 of this chapter will not be exceeded by the establishment or extension of the district.

(d) The state comptroller shall notify the city of his or her determination within sixty days of the receipt of the items specified in subdivision (b) of this section. Unless the state comptroller determines within such time that the tax and debt limitations provided in section 25-412 of this chapter will be exceeded by the establishment or extension of the district or that the statement required by paragraph four of subdivision (b) of this section does not comply with the provisions of such paragraph, the city may proceed with the establishment or extension of the district upon receipt of the notice from the state comptroller of his or her determination.

(e) Upon the city's compliance with any other requirements established by law, the local law adopted pursuant to section 25-407 of this chapter shall become effective.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section renumbered and amended L.L. 96/1989 § 8 (formerly § 25-407)

Subd. (b) open par amended L.L. 82/1990 § 6 retroactive to Sept. 1, 1990

Subd. (e) amended L.L. 82/1990 § 7 retroactive to Sept. 1, 1990

DERIVATION

Formerly § D3-8.0 added LL 2/1982 § 1

amended LL 78/1985 § 1

FOOTNOTES

3

[Footnote 3]: * This was an engrossing change made by the corporation counsel. It was formerly § 25-406.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-409

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-409 Publication; filing; judicial review.

(a) The city clerk shall cause a certified copy of the local law adopted pursuant to the provisions of this chapter establishing or extending any district, or increasing the maximum total amount proposed to be expended for the improvement in any district or extension, or changing the method of assessment, or authorizing the district to incur debt to provide for additional improvements or services within the district, to be duly recorded in the city clerk's office within ten days after such local law becomes effective. When so recorded this local law shall be presumptive evidence of the regularity of the proceedings for the establishment or extension of the district, of the proceedings instituted for the construction of any improvement and of all other actions taken in relation to it.

(b) Within ten days after the local law becomes effective, the city clerk shall, in addition to any other filing required by law, cause a certified copy thereof to be filed in the office of the state comptroller at Albany, New York, and within two weeks thereafter shall cause a copy of the local law or a summary thereof to be published at least once in the City Record or a newspaper of general circulation in the city.

(c) This local law shall be final and conclusive unless a proceeding to review is commenced in accordance with this subdivision. Any person aggrieved by any local law adopted pursuant to this chapter may seek judicial review of the local law in the manner provided by article seventy-eight of the civil practice law and rules, provided the proceeding is commenced within thirty days from the date of the publication of the copy or summary of the local law pursuant to subdivision (b) of this section. No review shall be had unless the petitioner shall give an undertaking approved by the supreme court, or a justice thereof, as to form, amount and sufficiency of sureties, that, in the event of failure to modify the local law, he or she will pay to the city all costs and expenses as are incurred by it on account of the proceedings, as shall be determined by the court. In the event that upon this review there shall be any modification by the court of the

local law, the court shall direct the modification by judgment which shall be final and conclusive, and the city clerk shall cause the judgment to be recorded and filed in the same places and manner as was the local law which was modified.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 8 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 9 (formerly § 25-408)

DERIVATION

Formerly § D3-9.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-410

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-410 Amendments to the district plan.

(a) At any time after the establishment or extension of a district pursuant to the provisions of this chapter, the district plan upon which the establishment or extension was based, may, upon the recommendation of the district management association, be amended by the city council after compliance with the procedures set forth in this section.

(b) Amendments to the district plan which provide for additional improvements or services or any change in the method of assessment upon which the district charge is based, or an increase only in the amount to be expended annually for improvements, services, maintenance and operation may be adopted by local law, provided that the city council shall, after a public hearing, determine that it is in the public interest to authorize the additional improvements, services or increase in the maximum annual amount and that the tax and debt limits prescribed in section 25-412 of this chapter will not be exceeded. The city council shall give notice of the hearing by publication of a notice in at least one newspaper having general circulation in the district specifying the time when and the place where the hearing will be held and stating the increase proposed in the maximum amount to be expended annually. This notice shall be published once at least ten days prior to the date specified for the hearing.

(c) Amendments to the district plan which provide for the district to incur indebtedness in order to provide for additional improvements or which provide for an increase in the total maximum amount to be expended for improvements in the district, may be adopted by local law, provided that the city council shall, after a public hearing, determine that it is in the public interest to authorize the district to incur indebtedness to provide for additional improvements or to increase the maximum total amount to be expended for improvements in the district and that the tax and debt limits prescribed in section 25-412 of this chapter will not be exceeded. Notice of the hearing shall be published and mailed in the manner provided in section 25-406 of this chapter. The local law adopted pursuant to this

subdivision shall not be effective until reviewed by the state comptroller in accordance with section 25-408 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 9 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 10 (formerly § 25-409)

DERIVATION

Formerly § D3-10.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-411

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-411 Expense of the district.

(a) The expense incurred in the construction or operation of any improvement or provision of additional services in a district pursuant to this chapter shall be financed in accordance with the district plan upon which the establishment or extension of the district was based. Services for which district property owners are charged pursuant to the plan must be in addition to or an enhancement of those provided by the city prior to the district's establishment. The expense and cost apportioned to benefited real property in accordance with the plan shall be a charge upon each benefited parcel of real property within the district.

(b) The charge upon benefited real property pursuant to this chapter shall be imposed as provided in the district plan. If the formula includes an ad valorem component, this component shall be determined by the assessed value of each parcel as entered on the latest completed assessment roll used by the city for the levy of general city taxes. The charge shall be determined, levied and collected in the same manner, at the same time and by the same officers, as general city taxes are levied and collected.

(c) When a district has been established pursuant to this chapter, the city may, for the purpose of providing funds for making capital improvements within such district, issue and sell bonds or other municipal obligations as provided in the local finance law and other applicable laws and statutes. Principal and interest payments on these bonds or other municipal obligations may be made in whole or in part from the proceeds of charges imposed upon benefited real property within the district.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section renumbered and amended L.L. 96/1989 § 11 (formerly § 25-410)

DERIVATION

Formerly § D3-11.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-412

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-412 Tax and debt limitations.

(a) The aggregate amount of outstanding indebtedness that is incurred to provide funds for capital improvements pursuant to this chapter shall be chargeable against the city's constitutional debt limit and may not exceed ten percent of the amount allowable under that limit. The aggregate amount of outstanding indebtedness that is incurred to provide funds for capital improvements pursuant to this chapter and that is chargeable against the property within the district may not exceed seven percent of the average full valuation of taxable real property in the district.

(b) The district charge, exclusive of debt service, levied in a given year against real property in a district may not exceed twenty percent of the total general city taxes levied in that year against the taxable real property in the district. The district charge so levied shall be included in the total amount, if any, that the city is permitted by law to raise in that year by a tax on real property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section renumbered and amended L.L. 96/1989 § 12 (formerly § 25-411)

DERIVATION

Formerly § D3-12.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

NYC Administrative Code 25-413

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-413 Expenditure of district funds.

(a) The proceeds of any charge imposed pursuant to this chapter shall be held by the comptroller and shall be separately accounted for in the books and records of the city. None of the proceeds collected pursuant to this chapter shall be used for any purposes other than those set forth in the district plan. These funds may be paid out for district purposes in accordance with the general procedures for payment of other city expenditures.

(b) All contracts for improvements, goods or services to be provided in the district shall be subject to all applicable provisions of the law relating to the letting of contracts by the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section renumbered and amended L.L. 96/1989 § 13 (formerly § 25-412)

DERIVATION

Formerly § D3-13.0 added LL 2/1982 § 1

(Special provision, new plans LL 2/1982 § 3)

(See § D3-4.0)

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-414

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-414 District management association.

(a) There shall be a district management association for each district established pursuant to the provisions of this chapter (which shall pursuant to the not-for-profit corporation law have one or more classes of membership, voting or nonvoting) for the purpose of carrying out such activities as may be prescribed in the plan. Notwithstanding any inconsistent provision of paragraph (e) of section six hundred eleven of the not-for-profit corporation law, the certificate of incorporation or by-laws of such association shall provide for voting representation of owners of property and tenants within the district, and may provide that the votes of members who are property owners be weighted in proportion to the assessment levied or to be levied against the properties within the district, provided that in no case shall the total number of votes assigned to any one such member or to any number of such members under common ownership or control exceed thirty-three and one-third percent of the total number of votes which may be cast.

(b) The board of directors of the association shall be composed of representatives of owners and tenants within the district, provided, however, that not less than a majority of its members shall represent owners and provided further that tenants of commercial space and dwelling units within the district shall also be represented on the board. The board shall include, in addition, four members, one member appointed by each of the following: the mayor, the comptroller, the borough president of the borough in which the district is located and the council member representing the council district in which the proposed district is located, or if the proposed district is located in more than one council district, by the speaker of the city council after consultation with the council members representing the council districts in which the proposed district is located. The additional four members shall serve as the incorporators of the association pursuant to the not-for-profit corporation law. The association may be incorporated prior to the effective date of any district established pursuant to this chapter.

(c) In addition to such other powers as are conferred on it by law, the district management association may make recommendations to the city council with respect to any matter involving or relating to the district.

(d) For such consideration as it may deem appropriate and consistent with the powers granted pursuant to section 25-404 of this chapter, the city council may license or grant to the district management association the right to undertake or permit commercial activities or other private uses of the streets or other parts of the district in which the city has any real property interest.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 10 retroactive to Sept. 1, 1990 renumbered and amended L.L. 96/1989 § 15 (formerly § 25-413)

DERIVATION

Formerly § D3-14.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-414

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-414 Contracts.

Repealed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section repealed L.L. 96/1989 § 14

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-415

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-415 Dissolution.

(a) Any district established or extended pursuant to the provisions of this chapter, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be dissolved by local law of the city council upon its own motion or upon the written petition of (1) the owners of at least fifty-one percent or more of the total assessed valuation of all benefited real property included in the boundaries of the district and (2) at least fifty-one percent of the owners of benefited real property within the area included in the district. The city council shall request and consider the recommendations of the district management association concerning any proposed dissolution; provided that if the association has not submitted recommendations to the city council within sixty days after request therefor, the city council may adopt any such proposed dissolution without considering such recommendations. In the event of dissolution, all assets of the district shall revert to the city.

(b) A certified copy of the order of dissolution shall be filed with the state comptroller at Albany, New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 96/1989 § 16

Subd. (a) amended L.L. 82/1990 § 11 retroactive to Sept. 1, 1990

DERIVATION

Formerly § D3-15.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-416

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-416 Existing districts.

Any special improvement or assessment districts, or any business improvement districts established pursuant to article two-B of the general city law, or any districts having filed an application with the state comptroller as provided in such article prior to the effective date of chapter two hundred eight-two of the laws of nineteen hundred eighty-nine, shall be subject to the provisions of this chapter but shall not be required to comply with any provisions of this chapter which are contrary to or more restrictive than those under which the district was established or proposed to be established as evidenced by an application filed with the state comptroller prior to the effective date of chapter two hundred eight-two of the laws of nineteen hundred eighty-nine. Any reference to article two-B of the general city law or any section thereof in any state or local law, plan or agreement shall be deemed to be a reference to article nineteen-A of the general municipal law, or the appropriate provision of such article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 12 retroactive to Sept. 1, 1990 amended L.L. 96/1989 § 17

DERIVATION

Formerly § D3-16.0 added LL 2/1982 § 1

Amended LL 78/1985 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-417

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 4 CITY BUSINESS IMPROVEMENT DISTRICTS

§ 25-417 Severability.

If any provision of any section of this chapter or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provisions of any section of this chapter or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this chapter are hereby declared to be severable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 82/1990 § 13 retroactive to Sept. 1, 1990. added L.L. 96/1989 § 18.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-420

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-420 Steinway Street Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Steinway Street Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Steinway Street Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 30/1991 § 1, eff. May 9, 1991 upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-420.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-420.1 Steinway Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Steinway Street business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred twenty-five thousand dollars ($325,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Steinway Street business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 69/1996 § 1, eff. July 23, 1996 and retroactive to July 1, 1996

Section added L.L. 67/1992 § 1, eff. July 1, 1992

Subd. a amended L.L. 60/2008 § 1, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

Subd. a amended L.L. 32/1994 § 1, eff. July 1, 1994

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-421

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-421 Metrotech Area Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Metrotech Area Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk purusant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Metrotech Area Buusiness*6 Improvement District is based.

c. The district plan shall not be amended except with accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 40/1991 § 1, eff. June 18, 1991 upon compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

6

[Footnote 6]: * So in original.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-421.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-421.1 Metrotech Area business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Metrotech Area business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two million six hundred twenty-four thousand four hundred ninety-two dollars ($2,624,492).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Metrotech Area business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 93/1995 § 1, eff. Dec. 29, 1995 and retroactive to July 1, 1995

Section added L.L. 67/1992 § 1, eff. July 1, 1992

Subd. a amended L.L. 133/2005 § 1, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

Subd. a amended L.L. 37/2003 § 1, eff. June 4, 2003 and retroactive to July 1, 2002.

Subd. a amended L.L. 30/2002 § 1, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-421.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-421.2 Metrotech Area business improvement district; amendment of the district plan.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize additional services for the Metrotech Area business improvement district, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by providing such additional services, there is hereby authorized in such district the additional services set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan setting forth the additional services authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 66/1997 § 1, eff. Aug. 19, 1997.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-421.3

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-421.3 Metrotech Area business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Metrotech Area business improvement district in the borough of Brooklyn is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Metrotech Area business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 35/2002 § 1, approved Nov. 7, 2002 and effective upon compliance with

§25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-421.4

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-421.4 Metrotech Area business improvement district; amendment of the district plan.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the Metrotech Area business improvement district is based, and the council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 92/2005 § 1, eff. Oct. 18, 2005 and retroactive to and

deemed to have been in full force and effect as of July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

NYC Administrative Code 25-422

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-422 Times Square Business Improvement District.

a. The City Council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Times Square Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Times Square Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 71/1991 § 1, approved July 23, 1991 and effective when in compliance with

§ 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-422.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-422.1 Times Square business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Times Square business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual ex- penditure of ten million four hundred thousand dollars ($10,400,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Times Square business improvement district plan.

HISTORICAL NOTE

Section added L.L. 93/1995 § 2, eff. Dec. 19, 1995 and retroactive to July 1, 1995.

Subd. a amended L.L. 61/2007 § 1, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

Subd. a amended L.L. 134/2005 § 1, eff. Dec. 29, 2005 and retroactive

to July 1, 2005.

Subd. a amended L.L. 30/2002 § 2, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-422.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-422.2 Times Square business improvement district; amendment of the district plan.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the Times Square business improvement district is based, and the council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 50/1996 § 6, eff. July 1, 1996

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-423

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-423 34th Street Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the 34th Street Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 34th Street Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 79/1991 § 1, eff. Aug. 16, 1991 and upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-423.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-423.1 34th Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 34th Street business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of nine million two hundred ninety-one thousand five hundred dollars ($9,291,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the 34th Street business improvement district plan.

HISTORICAL NOTE

Section heading amended L.L. 93/1995 § 3, eff. Dec. 29, 1995 and retroactive to July 1, 1995

Section added L.L. 36/1994 § 1, eff. Aug. 17, 1994 retroactive to July 1, 1994

Subd. a amended L.L. 60/2008 § 2, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

Subd. a amended L.L. 61/2007 § 2, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

Subd. a amended L.L. 133/2005 § 2, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

Subd. a amended L.L. 10/2004 § 1, eff. May 25, 2004 and retroactive to July 1, 2003.

Subd. a amended L.L. 30/2002 § 3, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 43/1997 § 1, eff. July 1, 1997.

Subd. a amended L.L. 69/1996 § 2, eff. July 23, 1996 and retroactive to July 1, 1996

Subd. a amended L.L. 93/1995 § 3, eff. Dec. 29, 1995 and retroactive to July 1, 1995

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-423.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-423.2 34th Street Business Improvement District; Amendments to the District Plan.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the 34th Street business improvement district is based, and the city council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 9/1995 § 1 retroactive to Jan. 1, 1995

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-424

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-424 Myrtle Avenue Business Improvement District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Myrtle Avenue business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of four hundred six thousand one hundred forty-one dollars ($406,141).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Myrtle Avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 75/1991 § 2, eff. July 23, 1991.

Section amended L.L. 30/2002 § 4, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 60/2008 § 3, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-425

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-425 Graham Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Graham Avenue business improvement district beginning on July 1, 2002, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred thirty-seven thousand six hundred thirty-eight dollars ($137,638).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Graham Avenue business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 67/1997 § 1, eff. Aug. 19, 1997 and retroactive to July 1, 1997.

Section added L.L. 75/1991 § 2, eff. July 23, 1991

Subd. a amended L.L. 30/2002 § 5, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-426

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-426 82nd Street Business Improvement District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 82nd Street business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred twenty-four thousand four hundred fifty dollars ($224,450).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the 82nd Street business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 69/1996 § 3, eff. July 23, 1996 and retroactive to July 1, 1996.

Section added L.L. 75/1991 § 2, eff. July 23, 1991.

Subd. a amended L.L. 60/2008 § 4, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

Subd. a amended L.L. 30/2005 § 1, eff. Apr. 4, 2005 and retroactive to July 1, 2004.

Subd. a amended L.L. 10/2004 § 2, eff. May 25, 2004 and retroactive to July 1, 2003.

Subd. a amended L.L. 30/2002 § 6, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-427

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-427 Grand Central business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Grand Central business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of eleven million five hundred sixty-five thousand five hundred forty dollars ($11,565,540).

(b) The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Grand Central business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 93/1995 § 4, eff. Dec. 29, 1995 and retroactive to July 1, 1995.

Section added L.L. 75/1991 § 2, eff. July 23, 1991.

Subd. a amended L.L. 133/2005 § 3, eff. Dec. 29, 2005 and retroactive

to July 1, 2005.

Subd. a amended L.L. 30/2002 § 7, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 42/1997 § 1, eff. July 1, 1997.

Subd. a amended L.L. 69/1996 § 4, eff. July 23, 1996 and retroactive to July 1, 1996.

Subd. a amended L.L. 34/1994 § 1, eff. July 1, 1994.

Subd. a amended L.L. 63/1993 § 1, eff. July 1, 1993.

Subd. a amended L.L. 67/1992 § 2, eff. July 1, 1992.

Subd. a (Note amended incorrectly as § 22-427).

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-427.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-427.1 Grand Central business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Grand Central business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Grand Central business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 21/1995 § 1, eff. Mar. 24, 1995 and compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-428

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-428 Lower East Side Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Lower East Side Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Lower East Side Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 57/1992 § 1, eff. July 23, 1992 and upon compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-428.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-428.1 Lower East Side business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lower East Side business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred ninety thousand four hundred dollars ($290,400).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Lower East Side business improvement district plan.

HISTORICAL NOTE

Section added L.L. 61/2007 §3, eff. Dec. 5, 2007 and retroactive to July 1, 2007.

Subd. a amended L.L. 60/2008 § 5, eff. Dec. 1, 2008 and retroactive to July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-429

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-429 East Brooklyn business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the east Brooklyn business improvement district beginning on July 1, 1996, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred forty-nine thousand five hundred dollars ($349,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the East Brooklyn business improvement district plan.

HISTORICAL NOTE

Section added L.L. 67/1992 § 3, eff. July 1, 1992

Subd. a amended L.L. 69/1996 § 5, eff. July 23, 1996 and retroactive to July 1, 1996

Subd. a amended L.L. 63/1993 § 2, eff. July 1, 1993

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-430

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-430 Woodhaven business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefitted is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Woodhaven Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Woodhaven Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 21/1993 § 1, eff. upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-430.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-430.1 Woodhaven business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Woodhaven business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred eighteen thousand dollars ($218,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Woodhaven business improvement district plan.

HISTORICAL NOTE

Section added L.L. 133/2005 § 4, eff. Dec. 29, 2005 and retroactive to

July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-431

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-431 Fifth Avenue Association business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefitted is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Fifth Avenue Association Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Fifth Avenue Association Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 20/1993 § 1, eff. upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-431.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-431.1 Fifth Avenue Association business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Fifth Avenue Association business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two million five hundred sixty-two thousand dollars ($2,562,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Fifth Avenue Association business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 9, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 61/2007 § 4, eff. Dec. 5, 2007 and retroactive to July 1, 2007.

Subd. a amended L.L. 133/2005 § 5, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-432

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-432 Fashion Center business improvement district.

a. The City Council having determined, pursuant to section 25-432 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Fashion Center Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Fashion Center Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 35/1993 § 1, eff. upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-432.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-432.1 Fashion Center business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Fashion Center business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of five million dollars ($5,000,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Fashion Center business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 10, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 61/2007 § 5, eff. Dec. 5, 2007 and retroactive to July 1, 2007.

Subd. a amended L.L. 133/2005 § 6, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-433

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-433 Pitkin Avenue business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Pitkin Avenue Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Pitkin Avenue Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 36/1993 § 1, eff. upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-433.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-433.1 Pitkin Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Pitkin Avenue business improvement district beginning on July 1, 1997, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred twenty-five thousand four hundred three dollars ($125,403).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Pitkin Avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 93/1995 § 5, eff. Dec. 29, 1995 and retroactive to July 1, 1995

Subd. a amended L.L. 44/1997 § 1, eff. July 1, 1997

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-434

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-434 Hub Third Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Hub Third Avenue business improvement district beginning on July 1, 2006, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of four hundred thousand nine hundred twenty-seven dollars ($400,927).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Hub Third Avenue business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 93/1995 § 6, eff. Dec. 29, 1995 and retroactive to July 1, 1995.

Section added L.L. 63/1993 § 3, eff. July 1, 1993.

Subd. a amended L.L. 56/2006 § 1, eff. Dec. 18, 2006 and retroactive to

and deemed in full force and effect as of July 1, 2006.

Subd. a amended L.L. 30/2002 § 11, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-435

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-435 Flatbush Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Flatbush Avenue business improvement district beginning on July 1, 2003, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred fourteen thousand five hundred twenty dollars ($314,520).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Flatbush avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 63/1993 § 3, eff. July 1, 1993

Subd. a amended L.L. 10/2004 § 3, eff. May 25, 2004 and retroactive to July 1, 2003.

Subd. a amended L.L. 30/2002 § 12, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 32/1994 § 2, eff. July 1, 1994.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-436

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-436 Grand Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Grand Street business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred eighty-one thousand one hundred sixty-eight dollars ($181,168).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Grand Street business improvement district plan.

HISTORICAL NOTE

Section amended L.L. 93/1995 § 7, eff. Dec. 29, 1995 and retroactive to July 1, 1995.

Section added L.L. 63/1993 § 3, eff. July 1, 1993.

Subd. a amended L.L. 61/2007 § 6, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

Subd. a amended L.L. 133/2005 § 7, eff. Dec. 29, 2005 and retroactive

to July 1, 2005.

Subd. a amended L.L. 30/2002 § 13, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 69/1996 § 6, eff. July 23, 1996 and retroactive to July 1, 1996.

Subd. a amended L.L. 32/1994 § 3, eff. July 1, 1994.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-437

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-437 125th street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the 125th Street Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 125th Street Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 72/1993 § 1, eff. Sept. 30, 1993

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-437.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-437.1 125th Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 125th Street business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of seven hundred nineteen thousand seven hundred sixty-six dollars ($719,766).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the 125th Street business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 14, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 61/2007 § 7, eff. Dec. 5, 2007 and retroactive to July 1, 2007.

Subd. a amended L.L. 133/2005 § 8, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-438

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-438 Village Alliance business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Village Alliance Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Village Alliance Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 73/1993 § 1, eff. Sept. 30, 1993

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-438.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-438.1 Village Alliance business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Village Alliance business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of nine hundred eighty-four thousand nine hundred dollars ($984,900).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Village Alliance business improvement district plan.

HISTORICAL NOTE

Section added L.L. 93/1995 § 8, eff. Dec. 29, 1995 and retroactive to July 1, 1995

Subd. a amended L.L. 60/2008 § 6, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-438.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-438.2 Village Alliance business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Village Alliance business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Village Alliance business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 44/2006 § 1, approved Nov. 9, 2006 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-439

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-439 White Plains Road business improvement district.

a. The city council having determined pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the White Plains Road Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the White Plains Road Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 8/1994 § 1, approved May 16, 1994 effective upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-439.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-439.1 White Plains Road business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the White Plains Road business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred ten thousand dollars ($110,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the White Plains Road business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 15, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 61/2007 § 8, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-440

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-440 Washington Heights business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Washington Heights business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of five hundred seventeen thousand four hundred twenty-two dollars ($517,422).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Washington Heights business improvement district plan.

HISTORICAL NOTE

Section added L.L. 32/1994 § 4, eff. July 1, 1994.

Subd. a amended L.L. 133/2005 § 9, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

Subd. a amended L.L. 30/2002 § 16, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 69/1996 § 7, eff. July 23, 1996 and retroactive to July 1, 1996.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-441

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-441 Bryant Park business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Bryant Park business improvement district beginning on July 1, 1994, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of nine hundred fifty thousand dollars ($950,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Bryant Park business improvement district plan.

HISTORICAL NOTE

Section added L.L. 33/1994 § 1, eff. July 1, 1994

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-441.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-441.1 Bryant Park business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Bryant Park business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Bryant Park business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 19/2008 § 1, approved May 6, 2008 eff. upon

compliance with § 25-408 and retroactive to Jan. 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-441.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-441.2 Bryant Park business improvement district; amendment of the district plan.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the Bryant Park business improvement district is based, and the council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 20/2008 § 1, eff. May 6, 2008 and retroactive to Jan.

1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-442

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-442 Downtown-Lower Manhattan Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Downtown-Lower Manhattan Business Improvement District. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Downtown-Lower Manhattan Business Improvement District is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 39/1994 § 1, eff. Sept. 26, 1994 and upon compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-442.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-442.1 Downtown-Lower Manhattan business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Downtown-Lower Manhattan business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Downtown-Lower Manhattan business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 70/1997 § 1, eff. upon compliance with § 25-408 and not before Jan. 1, 1998.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-442.2

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-442.2 Downtown-Lower Manhattan business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Downtown-Lower Manhattan business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of thirteen million dollars ($13,000,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Downtown-Lower Manhattan business improvement district plan, as amended.

HISTORICAL NOTE

Section added L.L. 133/2005 § 10, eff. Dec. 29, 2005 and retroactive to

July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-443

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-443 Sunset Park 5th Avenue business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Sunset Park 5th Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Sunset Park 5th Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 22/1995 § 1, eff. Mar. 24, 1995 and upon compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-443.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-443.1 Sunset Park 5th Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Sunset Park 5th Avenue business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred thousand dollars ($300,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Sunset Park 5th Avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 60/2008 § 7, eff. Dec. 1, 2008 and retroactive to July

1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-444

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-444 14th Street-Union Square business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the 14th Street-Union Square Business Improvement District in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the 14th Street-Union Square Business Improvement District, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 33/1995 § 1, eff. Apr. 21, 1995 and upon compliance with §25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-444.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-444.1 14th Street-Union Square business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 14th Street-Union Square business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one million four hundred thirty-nine thousand five hundred dollars ($1,439,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the 14th Street-Union Square business improvement district plan.

HISTORICAL NOTE

Section added L.L. 69/1996 § 8, eff. July 23, 1996 and retroactive to July 1, 1996.

Subd. a amended L.L. 135/2005 § 1, eff. Dec. 29, 2005 and retroactive

to July 1, 2005.

Subd. a amended L.L. 30/2002 § 17, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-445

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-445 Kings Highway business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Kings Highway business improvement district beginning on July 1, 2005, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred fifty thousand dollars ($250,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Kings Highway business improvement district plan.

HISTORICAL NOTE

Section added L.L. 93/1995 § 9, eff. Dec. 29, 1995 and retroactive to July 1, 1995.

Subd. a amended L.L. 133/2005 § 11, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-446

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-446 NoHo New York business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the NoHo New York business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the NoHo New York business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 67/1996 § 1, eff. July 23, 1996 and upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-447

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-447 Madison Avenue business improvement district.

The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Madison Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Madison Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 10/1996 § 1, eff. Feb. 5, 1996 and upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-447.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-447.1 Madison Avenue business improvement district; extension of district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Madison Avenue business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Madison Avenue business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 17/2005 § 1 approved Feb. 15, 2005 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-448

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-448 180th Street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the 180th Street business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 180th Street business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 9/1996 § 1, eff. Feb. 5, 1996 and upon compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-449

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-449 Mosholu-Jerome-East Gun Hill Road business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the Mosholu-Jerome-East Gun Hill Road business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Mosholu-Jerome-East Gun Hill Road business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 34/1996 § 1, eff. May 6, 1996 and upon compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-450

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-450 Lincoln Square business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Lincoln Square business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Lincoln Square business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 94/1996 § 1, approved Dec. 13, 1996 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

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NYC Administrative Code 25-450.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-450.1 Lincoln Square business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lincoln Square business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two million dollars ($2,000,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Lincoln Square business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 18, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Subd. a amended L.L. 60/2008 § 8, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-451

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-451 Church Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Church Avenue business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred eighty-eight thousand five hundred dollars ($188,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Church Avenue business improvement district plan.

HISTORICAL NOTE

Section renumbered and amended (formerly § 25-428) L.L. 30/2002 § 8, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

Section added L.L. 67/1992 § 3, eff. July 1, 1992.

Subd. a amended L.L. 60/2008 § 9, eff. Dec. 1, 2008 and retroactive to July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-452

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-452 47th Street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the 47th Street business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 47th Street business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 19/1997 § 1, approved Apr. 10, 1997 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-452.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-452.1 47th Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 47th Street business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of five hundred thousand dollars ($500,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the 47th Street business improvement district plan.

HISTORICAL NOTE

Section added L.L. 10/2004 § 4, eff. May 25, 2004 and retroactive to July 1, 2003.

Subd. a amended L.L. 60/2008 § 10, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-453

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-453 North Flatbush Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the North Flatbush Avenue business improvement district beginning on July 1, 2006, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred fifteen thousand dollars ($115,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the North Flatbush Avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 41/1997 § 1, eff. July 1, 1997.

Subd. a amended L.L. 56/2006 § 2, eff. Dec. 18, 2006 and retroactive to

and deemed in full force and effect as of July 1, 2006.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-454

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-454 Montague Street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Montague Street business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Montague Street business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 81/1997 § 1, approved Oct. 20, 1997 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-454.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-454.1 Montague Street business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Montague Street business improvement district beginning on July 1, 2002, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred twenty-four thousand five hundred dollars ($124,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Montague Street business improvement district plan.

HISTORICAL NOTE

Section added L.L. 30/2002 § 19, eff. Oct. 15, 2002 and retroactive to July 1, 2002.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-455

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-455 Columbus Avenue Business Improvement District.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Columbus Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Columbus Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 40/1999 § 1, approved Aug. 4, 1999 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-455.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-455.1 Columbus Avenue business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Columbus Avenue business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred eight thousand eight hundred dollars ($308,800).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Columbus Avenue business improvement district plan.

HISTORICAL NOTE

Section added L.L. 60/2008 § 11, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

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NYC Administrative Code 25-456

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-456 86th Street Bay Ridge business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the 86th Street Bay Ridge business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 86th Street Bay Ridge business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 32/2001 § 1, approved May 29, 2001 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-457

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-457 Kingsbridge business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the Kingsbridge business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Kingsbridge business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 31/2001 § 1, approved May 29, 2001 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-457.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-457.1 Kingsbridge business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Kingsbridge business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred twenty-nine thousand dollars ($329,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Kingsbridge business improvement district plan.

HISTORICAL NOTE

Section added L.L. 60/2008 § 12, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-458

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-458 East Mid-Manhattan business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the East Mid-Manhattan business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the East Mid-Manhattan business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 53/2001 § 1, approved Aug. 8, 2001 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-458.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-458.1 East Mid-Manhattan business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the East Mid-Manhattan business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two million two hundred thousand dollars ($2,200,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the East Mid-Manhattan business improvement district plan.

HISTORICAL NOTE

Section added L.L. 61/2007 § 9, eff. Dec. 5, 2007 and retroactive to July

1, 2007.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-459

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-459 Brighton Beach business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Brighton Beach business improvement district beginning on July 1, 2008, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred ninety thousand dollars ($190,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Brighton Beach business improvement district plan.

HISTORICAL NOTE

Section added L.L. 36/2003 § 1, eff. June 4, 2003.

Subd. a amended L.L. 60/2008 § 13, eff. Dec. 1, 2008 and retroactive to

July 1, 2008.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-460

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-460 Downtown Flushing Transit Hub business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Downtown Flushing Transit Hub business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Downtown Flushing Transit Hub business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 58/2003 § 1, approved Sept. 4, 2003 eff. upon compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-461

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-461 Columbus/Amsterdam business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Columbus/Amsterdam business improvement district beginning on July 1, 2003, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred one thousand six hundred dollars ($201,600).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Columbus/Amsterdam business improvement district plan.

HISTORICAL NOTE

Section added L.L. 10/2004 § 5, eff. May 25, 2004 and retroactive to July 1, 2003.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-462

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-462 Sutphin Boulevard business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Sutphin Boulevard business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Sutphin Boulevard business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 72/2003 § 1, approved Dec. 4, 2003 eff. upon compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-463

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-463 Madison/23rd/Flatiron/Chelsea business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Madison/23rd/Flatiron/Chelsea business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Madison/23rd/Flatiron/Chelsea business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 112/2005 § 1, approved Dec. 29, 2005 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-464

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-464 Fordham Road business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the Fordham Road business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Fordham Road business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 61/2004 § 1, approved Dec. 21, 2004 effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-465

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-465 Forest Avenue business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Staten Island, the Forest Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Forest Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 53/2004 § 1, approved Nov. 29, 2004 effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-466

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-466 Myrtle Avenue Brooklyn business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Myrtle Avenue Brooklyn business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Myrtle Avenue Brooklyn business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 49/2004 §1, approved Nov. 9, 2004 and effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-466.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-466.1 Myrtle Avenue Brooklyn34 business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Myrtle Avenue Brooklyn business improvement district beginning on July 1, 2007, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of three hundred fifty thousand dollars ($350,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Myrtle Avenue Brooklyn business improvement district plan.

HISTORICAL NOTE

Section added L.L. 61/2007 § 10, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

34

[Footnote 34]: * There are 2 sections 25-466.1.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-466.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-466.1 Myrtle Avenue Brooklyn business improvement district; amendment of the district plan.

a. The city council having determined, pursuant to subdivision (b) of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the Myrtle Avenue Brooklyn business improvement district is based, and the council having determined further that the tax and debt limitations prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

HISTORICAL NOTE

Section added L.L. 15/2008 § 1, eff. Apr. 28, 2008 and retroactive to

July 1, 2007.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-467

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-467 Queens Plaza/Court Square business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Queens Plaza/Court Square business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Queens Plaza/Court Square business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 62/2004 § 1, approved Dec. 21, 2004 effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-468

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-468 161st Street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the 161st Street business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the 161st Street business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 33/2005 § 1, approved Apr. 28, 2005 effective upon compliance with

§ 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-469

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-469 DUMBO business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the DUMBO business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the DUMBO business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 101/2005 § 1, approved Dec. 1, 2005 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-470

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-470 Flatbush-Nostrand Junction business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Flatbush-Nostrand Junction business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Flatbush-Nostrand Junction business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 7/2006 § 1, approved May 11, 2006 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-471

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-471 Bay Ridge 5th Avenue business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Bay Ridge 5th Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision (b) of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Bay Ridge 5th Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 28/2006 § 1, approved July 27, 2006 and effective

upon compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-472

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-472 Court-Livingston-Schermerhorn business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn the Court-Livingston-Schermerhorn business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Court-Livingston-Schermerhorn business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 27/2007 § 1, approved June 14, 2007 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-473

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-473 Sunnyside business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Sunnyside business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Sunnyside business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 44/2007 § 1, approved Sept. 5, 2007 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-474

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-474 Bayside Village business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Queens, the Bayside Village business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Bayside Village business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 51/2007 § 1, approved Oct. 9, 2007 effective upon

compliance with § 25-408

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-475

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-475 Southern Boulevard business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the Southern Boulevard business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Southern Boulevard business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 66/2007 § 1, approved Dec. 31, 2007 and effective

upon compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-476

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-476 Park Slope Fifth Avenue business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Park Slope Fifth Avenue business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Park Slope Fifth Avenue business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 25/2008 § 1, approved June 3, 2008 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-477

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-477 Belmont business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of the Bronx, the Belmont business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Belmont business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 58/2008 § 1, approved Dec. 1, 2008 effective upon

compliance.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-478

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-478 Fulton Street business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Brooklyn, the Fulton Street business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Fulton Street business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 62/2008 § 1, approved Dec. 29, 2008 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-479

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 5 ESTABLISHMENT, EXTENSION AND AMENDMENT OF CITY BUSINESS IMPROVEMENT DISTRICTS*4

§ 25-479 Hudson Square business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Hudson Square business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Hudson Square business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

HISTORICAL NOTE

Section added L.L. 7/2009 § 1, approved Feb. 10, 2009 effective upon

compliance with § 25-408.

FOOTNOTES

4

[Footnote 4]: * Chapter heading amended L.L. 75/1991 § 1, eff. July 23, 1991.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-601

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 6 AUTHORIZATION OF INCREASED EXPENDITURE IN SPECIAL ASSESSMENT DISTRICTS

§ 25-601 One Hundred Sixty-fifth Street Mall Special Assessment District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the one hundred sixty-fifth street mall special assessment district, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one hundred sixty-eight thousand seven hundred twenty-four dollars ($168,724).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the one hundred sixty-fifth street mall special assessment act.

c. The commissioner of finance shall prepare a roll setting forth separately the charges to be assessed against each separately assessed property in the district.

HISTORICAL NOTE

Section amended L.L. 66/1992 § 1, eff. July 1, 1992.

Section added L.L. 76/1991 § 1, eff. July 23, 1991

Subd. a amended L.L. 31/1994 § 1, eff. July 1, 1994.

Subd. a amended L.L. 62/1993 § 1, eff. July 1, 1993.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-602

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 6 AUTHORIZATION OF INCREASED EXPENDITURE IN SPECIAL ASSESSMENT DISTRICTS

§ 25-602 Fulton Mall Special Assessment District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Fulton Mall special assessment district, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of one million five hundred one thousand five hundred dollars ($1,501,500).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Fulton mall special assessment act, as amended.

c. The commissioner of finance shall prepare a roll setting forth separately the charges to be assessed against each separately assessed property in the district.

HISTORICAL NOTE

Section amended L.L. 66/1992 § 1, eff. July 1, 1992.

Section added L.L. 76/1991 § 1, eff. July 23, 1991.

Subd. a amended L.L. 61/2007 § 11, eff. Dec. 5, 2007 and retroactive to

July 1, 2007.

Subd. a amended L.L. 133/2005 § 12, eff. Dec. 29, 2005 and retroactive to July 1, 2005.

Subd. a amended L.L. 88/1995 § 1, eff. Dec. 19, 1995 and retroactive to July 1, 1995.

Subd. a amended L.L. 31/1994 § 2, eff. July 1, 1994.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-603

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 6 AUTHORIZATION OF INCREASED EXPENDITURE IN SPECIAL ASSESSMENT DISTRICTS

§ 25-603 Nassau Street Mall Special Assessment District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Nassau street mall special assessment district, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in subdistrict A of such district an annual expenditure of one hundred forty-two thousand five hundred dollars ($142,500) and in subdistrict B of such district an annual expenditure of fifty-six thousand dollars ($56,000).

b. The amount of such expenditure to be levied upon each property in subdistrict A and subdistrict B of such district shall be determined in accordance with the method of assessment set forth in the Nassau street mall special assessment act, as amended, provided that any property referred to in paragraph b of subdivision 2 of section 5 of such act for which an adjusted levy was made in fiscal year 1991, may have its levy adjusted in subsequent fiscal years using the same method of assessment for such adjustment as was used in fiscal year 1991. If such adjustments are made the levy for the remaining properties in the subdistricts may be adjusted accordingly.

HISTORICAL NOTE

Section amended L.L. 66/1992 § 1, eff. July 1, 1992.

Section added L.L. 76/1991 § 1, eff. July 23, 1991

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 25-603.1

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 6 AUTHORIZATION OF INCREASED EXPENDITURE IN SPECIAL ASSESSMENT DISTRICTS

§ 25-603.1 Dissolution of Nassau street mall special assessment district.

The recommendations of the Nassau street mall improvement association concerning the proposed dissolution of the Nassau street mall special assessment district having been requested and considered by the city council in accordance with subdivision (a) of section 25-415 of chapter four of this title, therefore, pursuant to the authority granted by such subdivision, the Nassau street mall special assessment district is hereby dissolved as of the end of calendar day December 31, 1997, provided that as of such date there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the Nassau street mall special assessment district.

HISTORICAL NOTE

Section added L.L. 70/1997 § 2, eff. Sept. 11, 1997.

NYC Administrative Code 25-604

Administrative Code of the City of New York

Title 25 Land Use

CHAPTER 6 AUTHORIZATION OF INCREASED EXPENDITURE IN SPECIAL ASSESSMENT DISTRICTS

§ 25-604 Jamaica Center Mall Special Assessment District.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Jamaica Center mall special assessment district, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in subdistrict 1 of such district an annual expenditure of five hundred ninety-five thousand five hundred dollars ($595,500) and in subdistrict 2 of such district an annual expenditure of one hundred forty-two thousand dollars ($142,000).

b. The amount of such expenditure to be levied upon each property in subdistrict 1 and subdistrict 2 of such district shall be determined in accordance with the method of assessment set forth in the Jamaica Center mall special assessment act, as amended, provided that any property referred to in paragraph b of subdivision 2 of section 5 of such act for which an adjusted levy was made in fiscal year 1991, may have its levy adjusted in subsequent fiscal years using the same method of assessment for such adjustment as was used in fiscal year 1991. If such adjustments are made the levy for the remaining properties in the subdistricts may be adjusted accordingly.

HISTORICAL NOTE

Section amended L.L. 66/1992 § 1, eff. July 1, 1992.

Section added L.L. 76/1991 § 1, eff. July 23, 1991

Subd. a amended L.L. 30/2005 § 2, eff. Apr. 4, 2005 and retroactive to July 1, 2004.

Subd. a amended L.L. 70/1993 § 1, eff. July 1, 1993.

Subd. a amended L.L. 62/1993 § 2, eff. July 1, 1993.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-301

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 2 RELOCATION SERVICES

§ 26-301 Relocation of tenants.

1. The commissioner of housing preservation and development shall have the power and it shall be his or her duty:

(a) To provide and maintain tenant relocation services

(i) for tenants of real property which the commissioner of housing preservation and development is authorized to maintain and supervise; and

(ii) for tenants of real property acquired for public purposes, excluding real property acquired by or on behalf of the New York city housing authority or the triborough bridge and tunnel authority; and

(iii) for tenants of real property located in any neighborhood improvement district designated by the city planning commission, where the displacement of such tenants results from the enforcement of any law, regulation, order or requirement pertaining to the maintenance and operation of such property or the health, safety and welfare of its occupants; and

(iv) when authorized by the mayor, for the tenants of any privately owned building or other improvement which is to be voluntarily rehabilitated in accordance with an urban renewal plan pursuant to law; and

(v) for tenants of any privately owned building where the displacement of such tenants results from the enforcement of any law, regulation, order or requirement pertaining to the maintanance or operation of such building or the health, safety and welfare of its occupants.

Such services shall consist of such activities as he or she may deem necessary, useful or appropriate for the relocation of such tenants, including but not limited to the gathering and furnishing of information as to suitable vacant accommodations, the making of studies and surveys for the purpose of locating such accommodations and the provision of facilities for the registration of such accommodations with the department by owners, lessors and managing agents of real property and others.

(b) Subject to the approval of the mayor, to fix and promulgate and from time to time amend a schedule of payments to be made to or for the benefit of and to aid in the relocation of tenants. Such schedule with respect to payments resulting from or relative to state or state-aided programs or activities within the city of New York shall also be subject to the approval of the director of the state division of the budget and of the head of the state department or agency having jurisdiction over such program, activity or aid. Such schedule shall provide for equal treatment of tenants under similar circumstances, shall be applicable as herein provided and may include but need not be limited to payments to be made to such tenants to induce their voluntary removal, moving expenses and expenses of redecorating accommodations to which such tenants are relocated and payments to persons for the services of finding accommodations to which such tenants are to be relocated. Such schedule may include maximum or minimum payments, or both. The acceptance of a payment provided for under such schedule by a landlord, owner or authorized agent shall not be deemed a violation of any rent regulation or statutory prohibition to the contrary.

(c) Subject to the approval of the mayor, to adopt and promulgate and from time to time amend supplementary rules and regulations not inconsistent with the provisions of this section in regard to relocation practices and procedures, applicable as herein provided.

(d) To schedule and coordinate the tenant relocation operations of agencies, persons, firms and corporations to which the rules and regulations promulgated pursuant to this section are applicable.

(e) To review conditions of city-owned dwellings used for residential purposes and, upon submission of a report by two qualified employees of the agency following a personal inspection, setting forth a finding that any such dwelling is in condition which endangers the life, health or safety of the occupants, and if he or she accepts such report, the commissioner may certify that the conditions in the dwelling are such that they require that the dwelling be vacated in which event he or she shall:

(i) order such dwelling to be vacated by its occupants upon no less than thirty days written notice to such occupants; and

(ii) provide relocation services and allowances for occupants who relocate pursuant to any such order and the regulations promulgated by the department.

2. The commissioner shall have power, when authorized by the mayor , to let contracts for the furnishing of maintenance services, payments and benefits deemed necessary, useful or appropriate for the purpose of assisting in the relocation of tenants of real property mentioned in subparagraphs (i), (ii), (iii) and (iv) of paragraph (a) of subdivision one of this section, provided that payments to be made to or for the benefit of such tenants shall be those fixed and promulgated pursuant to paragraph (b) of subdivision one of this section.

3. Notwithstanding any other provisions of law, the schedule promulgated pursuant to paragraph (b) of subdivision one of this section and the rules and regulations promulgated pursuant to paragraph (c) of subdivision one of this section shall, to the extent to which they are not inconsistent with any federal act or regulation issued pursuant thereto, be applicable to every agency and public corporation engaged in the relocation of tenants including, but not limited to, the department of housing preservation and development, the New York city housing authority and the triborough bridge and tunnel authority, and shall also be applicable, as therein provided and to the extent to which they are not inconsistent with any federal act or regulation issued pursuant thereto, to every person,firm or corporation whose relocation activities are subject to the supervision of the department pursuant to section 26-302 of this chapter provided,

however, that where the commissioner furnishes relocation services to any tenants pursuant to the provisions of subparagraph (iv) of paragraph (a) of subdivision one of this section, such schedule shall be applicable to the person, firm or corporation which has contracted with the city for the rehabilitation of the building or other improvement occupied by such tenants, and such person, firm or corporation shall make payments to or for the benefit of such tenants in accordance with such schedule, subject to adjustment as to payments with respect to which federal reimbursement is provided.

4. The commissioner shall have the power to investigate, examine and inspect relocation operations which are subject to the provisions of this section.

5. The commissioner shall annually submit to the mayor, the board of estimate, and the council a detailed report on tenant relocation activities which are subject to the provisions of this section and recommendations in regard thereto and shall coordinate the efforts of and consider the reports, recommendations and suggestions of public and private agencies and civic groups in regard thereto.

6. a. There shall be an interagency relocation coordinating committee, which shall consist of a deputy mayor designated by the mayor, and representatives of the department of buildings, the department of city planning, department of health and mental hygiene, the department of housing preservation and development, the New York city housing authority, the commission on human rights, the board of education, the triborough bridge and tunnel authority and the department of social services. Each such board, authority, commission or agency and the head of each such department shall appoint as a representative one officer or employee who is a member of the staff of such board, authority, commission, department or agency and is qualified to participate in the functions of the committee as herein prescribed. Such representatives shall represent their respective agencies as members of the committee. The deputy mayor designated by the mayor as a member of such committee shall be its chairperson. It shall advise the commissioner of housing preservation and development for the purpose of assisting the commissioner in developing a relocation program for the city which will best serve the public interest. The members of the committee shall serve as such without additional compensation.

b. Notwithstanding any other provisions of law, no officer or employee of the city or other public officer or employee shall be ineligible for appointment or service as a member of the committee and any such officer or employee may accept any such appointment and serve as such member without forfeiture of any other city or public office or any other city position or other position of public employment by reason thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 6 par a amended L.L. 22/2002 § 55, eff. July 29, 2002 and deemed in effect as of July 1,

2002.

DERIVATION

Formerly § 1160-1.0 added LL 68/1962 § 5

Sub 1 par b amended chap 889/1963 § 2

Sub 3 amended chap 889/1963 § 3

Sub 1 par e added chap 529/1980 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Tenant was entitled to receive from City costs of relocating its amusement park rides and equipment when it was an occupant at time City retook title to property pursuant to a condemnation order in 1972 although it was not an occupant when title originally vested in the City in 1971.-Matter of MHG Enterprises, Inc. & Other Condemnees in Possession v. City of N.Y., 91 Misc. 2d 842 [1977].

¶ 2. Tenants in emergency relocation center in Bronx for whom Dept. of Housing Preservation and Development (HPD) was responsible for relocating, who had benefits terminated by HPD for their refusal of three "standard" apts. (as per HPD's regulns.) were entitled to bring class action. Change in HPD's defn. of "standard" apt. from "hazardous" viol. standard to "immediately hazardous" viol. standard was arbitrary and capricious. Permanent injunction granted preventing HPD from using such standard.-Matter of Goodwin v. Gleidman, 119 Misc. 2d 538 [1983].

CASE NOTES

¶ 1. Eviction proceedings were brought by the City because it had posted a vacate order pursuant to §26-301(1)(e) that a city-owned in rem building was unsafe. Before the City can be relieved from its statutory duty to repair the building, it must demonstrate that its conduct did not create the condition of disrepair or allow it to occur through neglect. Hearing is required on the repair costs. Lacks v. City of New York, 156 Misc. 2d 749 [1993].

¶ 2. The City of New York does not have unfettered discretion to issue a vacate order. If repair work is economically feasible, the City cannot employ a vacate order as a means of avoiding its obligation to keep the building in good repair. Lacks v. City of New York, 201 A.D.2d 309, 607 N.Y.S.2d 32 (1st Dept. 1994).

¶ 3. The City issued a vacate order, relocated a group of tenants, and then sought reimbursement for relocation expenses. The landlord contended that the tenants vacated the premises not because of the vacate order but because of eviction proceedings commenced by the landlord against the tenants prior to the issuance of the vacate order. The court held that in the absence of proof that the tenants even received the vacate order prior to their departure from the premises, and in the absence of proper documentation of the expenses in question, the City was not entitled to a lien for relocation expenses. Thus, the court granted the landlord's application for an order vacating the City's lien. Toolsee v. HPD, 299 A.D.2d 209, 750 N.Y.S.2d 24 (1st Dept. 2002).

¶ 4. Admin. Code § 26-301 requires the Department of Housing Preservation and Development to provide location assistance for tenants of privately owned buildings where the displacement of the tenant results from the enforcement of any law or regulation pertaining to maintenance of operation of the building. Thus, a tenant, who was residing in an illegal basement apartment and who was forced to leave the premises due to a vacate order, was held to be entitled to relocation assistance. The court rejected HPD's argument that the occupant of an illegal apartment could not be deemed a permanent resident for purposes of the relocation statute. Cupidon v. Donovan, 8 Misc.3d 1024(A), 803 N.Y.S.2d 17, 2005 WL 1880605 (Sup.Ct. New York Co. 2005).

¶ 5. Tenants in buildings subject to orders to vacate are entitled to relocation services, provided by the New York City Dept. of Housing Preservation and Development, regardless of whether the dwelling units which are subject to the vacate orders are lawful. Smith v. Donovan, 61 A.D.3d 505, 878 N.Y.S.2d 675 (1st Dept. 2009).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-302

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 2 RELOCATION SERVICES

§ 26-302 Supervision of relocation activities of developers.

The commissioner of housing preservation and development shall supervise the tenant relocation activities of any party to the contract with the city which requires such party to develop any real property in accordance with the terms of such contract, in any case where the contract provides that the commissioner shall exercise such supervision.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1160-2.0 added LL 68/1962 § 5

Amended chap 889/1963 § 4

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-303

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 2 RELOCATION SERVICES

§ 26-303 Relocation advisory commission.

There shall be a relocation advisory commission composed of fifteen members, who shall be appointed by the mayor. The members of the advisory commission shall hold office for one year terms and shall serve without compensation. In making such appointments, due consideration shall be given to the recommendations made by representative associations, civic and professional groups concerned with or engaged in the field of tenant relocation generally.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1160-3.0 added LL 68/1962 § 5

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-304

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 2 RELOCATION SERVICES

§ 26-304 Powers and duties.

The relocation advisory commission shall meet at least once a month. It shall be informed by the commissioner of housing preservation and development of, and advise him or her on, matters of procedure and policy with respect to the relocation of tenants of real property over which the department has relocation jurisdiction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § 1160-4.0 added LL 68/1962 § 5

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-305

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 2 RELOCATION SERVICES

§ 26-305 Expenses of relocation pursuant to vacate order.

1. Whenever the department of housing preservation and development has incurred expenses in providing relocation services for tenants pursuant to subparagraph (v) of paragraph (a) of subdivision one of section 26-301 of this chapter, the department shall be entitled to reimbursement of such expenses from the owner of the building from which such tenants were relocated, if the conditions giving rise to the need for such relocation arose as a result of the negligent or intentional acts of such owner, or as a result of his or her failure to maintain such dwelling in accordance with the standards prescribed by the housing or health code governing such dwelling. "Owner" for purposes of this section shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling.

2. The expenses incurred for which payment to the department is due under the provisions of this section shall include but not be limited to departmental costs, bonuses, moving expenses or other reasonable allowances given to induce tenants to relocate voluntarily.

3. The department may bring an action against the owner for the recovery of such expenses. The institution of such action shall not suspend or bar the right to pursue any other remedy provided by this section or any other law for the recovery of such expenses.

4. To the extent that such expenses are not recovered by the department, they shall, except as herein provided, constitute a lien or liens upon such building and the lot upon which it stands, governed by the provisions of law regulating mechanics liens.

(a) No such lien shall be valid for any purpose until the department shall file a notice of lien containing the same particulars as are required to be stated with reference to mechanics liens, with the further statement that the expenses had been incurred for relocation services provided pursuant to subparagraph (v) of paragraph (a) of subdivision one of section 26-301 of this chapter together with a statement of such expenses. The department may file one or more such liens for relocation expenses incurred with respect to any building within one year of incurring any such expenses. In computing such one year period, the latest date on which any expense in relation to which such notice was filed has been incurred shall be deemed the date on which all of the expenses stated in such notice were incurred.

(b) Such lien or liens shall continue for a period of ten years from the time of filing of notice thereof, unless proceedings are in the meantime taken to enforce or discharge such lien or liens, which proceedings may be taken at any time during the continuance of such lien or liens or unless an order is granted within [three] ten years from the time of the filing of any such lien or liens by a court of record or a judge or justice thereof continuing such lien or liens, in which case such lien or liens shall be redocketed as of the date of granting such order and a statement made continuing such lien or liens by virtue of such order. No lien shall be continued by such order for more than ten years from the granting thereof, but a new order and entry may be made in each successive ten-year period. Any judgment in a proceeding to enforce or discharge such lien shall constitute a lien in the same manner and from the same date as the original lien. The initiation of any such proceedings shall not suspend or bar the right to pursue any other remedy provided by this section or any other law for the recovery of such expenses.

(c) Notwithstanding anything to the contrary in paragraph b of this subdivision, a lien which already exists and is currently docketed on the effective date of the local law that added this paragraph shall be deemed continued for a period of ten years commencing from the date of the last renewal or docketing of said lien, whichever is later.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. 4 amended L.L. 65/1997 § 5, eff. Sept. 18, 1997.

DERIVATION

Formerly § 1160-5.0 added LL 15/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Authorization for a lien in favor of the City for cost of relocation services where a fire had occurred at the premises, which was filed in accordance with this section was constitutional where an opportunity for an immediate hearing existed upon application to enforce or discharge the lien.-Gibor Associates v. City of N.Y., 91 Misc. 2d 915 [1977].

CASE NOTES

¶ 1. In City of New York v. New York & Hong Kong Reciprocation Exchange Corp., 193 Misc.2d 716, 749 N.Y.S.2d 405 (Sup.Ct. New York Co. 2002), 55 persons allegedly were living illegally in the basement of the subject building. The City issued a vacate order, relocated the 55 tenants, and then sought reimbursement from the building owner for the costs of relocation. Although 55 people allegedly resided in the basement cubicles, there were only a total of 20 beds there. The statute provides for reimbursement in connection with relocation of "tenants," and the court had to decide whether the relocated persons constituted "tenants" within the meaning of the statute. The court held that in the absence of evidence as to the length of time that the occupants resided at the premises (some may not have lived there for more than a day or two), the occupants did not qualify as "tenants." Thus, the court dismissed the City's action for reimbursement of relocation expenses.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-401

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-401 Declaration and findings.

a. The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons in the city, which emergency was created by war, the effects of war and the aftermath of hostilities; that such emergency necessitated the intervention of federal, state and local government in order to prevent speculative, unwarranted and abnormal increases in rents; that there continues to exist an acute shortage of dwellings; that unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; that to prevent such perils to health, safety and welfare, preventive action through enactment of local legislation by the council continues to be imperative; that such action, as a temporary measure to be effective until it is determined by the council that such emergency no longer exists, is necessary in order to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health; that the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state and city policy, must be administered with due regard for such emergency; that in order to prevent uncertainty, hardship and dislocation, the provisions of this chapter are declared to be necessary and designed to protect the public health, safety and general welfare.

b. The council further declares that it is city policy to utilize the powers conferred by this chapter, in a manner consistent with the purposes and provisions thereof, to encourage and promote the improvement and rehabilitation of the housing accommodations subject to control hereunder, for the purpose of protecting the public health, safety and general welfare.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-1.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1526

(formerly § Y41-1.0)

CASE NOTES FROM FORMER SECTION

¶ 1. The Rent and Rehabilitation Law (local law, 1962, No. 20) is constitutional. Amsterdam-Manhattan, Inc. v. City Rent and Rehabilitation Administration, 43 Misc 2d 889, 252 NYS2d 758 [1964], aff'd, 21 App. Div. 2d 965, 252 NYS2d 395 [1964], aff'd, 15 NY2d 1014, 260 NYS2d 23, 207 NE2d 611 [1965].

¶ 2. Local Law 13 of 1964, which provides for the decontrol of certain apartments having a maximum rental of $250 or more per month, is constitutional. Gauthier v. Gabel, 44 Misc 2d 887, 255 NYS2d 200 [1964], aff'd, 16 NY2d 720, 268 NYS2d 105, 209, NE2d 723 [1965].

¶ 3. Landlord was not entitled to rent in excess of maximum rent under rent control in non-payment summary proceeding brought against tenant of a rent controlled apartment even though parties upon consent of tenant stipulated in a prior summary proceeding to such an increase such an agreement being against public policy. Norms Realty v. Rodriguez, 108 Misc 2d 124 [1981].

CASE NOTES

¶ 1. There is no distinction between an over-charge in rent and a failure to refund rent in regard to the treble damage penalty of an apartment subject to the Emergency Tenant Protection Act of 1974 where the tenants had paid rent increases based on a tax escalation clause in their leases and the landlord had received refunds from the city from tax certiorari proceedings. Shainess v. Division of Housing & Community Renewal, 78 AD2d 788 [1988].

¶ 2. President Park, Inc. v. Brabham, 635 N.Y.S.2d 432 (Civ.Ct. New York Co. 1995). Where a rent controlled building is sold to the City of New York, the premises are no longer rent controlled. However, if the building is later resold to a private party, the building reverts back to rent control.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-402

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-402 Short title.

This chapter shall be known and may be cited as the city rent and rehabilitation law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-2.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1527

(formerly § Y41-2.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-403

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-403 Definitions.

When used in this chapter, unless a different meaning clearly appears from the context, the following terms shall mean and include:

a. Administrator. The commissioner of the state division of housing and community renewal.

b. City rent agency. The state division of housing and community renewal.

c. "Documents." Records, books, accounts, correspondence, memoranda and other documents, drafts and copies of any of the foregoing.

d. "Federal act." The Emergency Price Control Act of nineteen hundred forty-two, and as thereafter amended and as superseded by the Housing and Rent Act of nineteen hundred forty-seven, and as the latter was thereafter amended prior to May first, nineteen hundred fifty, and regulations adopted pursuant thereto.

e. "Housing accommodation." 1. Except as otherwise provided in paragraph two of this subdivision e, any building or structure, permanent or temporary, or any part thereof, occupied or intended to be occupied by one or more individuals as a residence, home, sleeping place, boarding house, lodging house or hotel, together with the land and buildings appurtenant thereto, and all services, privileges, furnishings, furniture and facilities supplied in connection with the occupation thereof, and any plot or parcel of land (as distinguished from any building constructed or placed thereon) which is not owned by the city and which was rented prior to May first, nineteen hundred fifty, for the purpose of permitting the tenant thereof to construct his or her own private dwelling (as such term "private dwelling" is defined

in subdivision six of section four of the multiple dwelling law) thereon and on which there exists such a private dwelling owned and occupied by a tenant of such plot or parcel, or on or after July first, nineteen hundred seventy-one such private dwelling is owned and occupied by a member of the tenant's immediate family provided that the member of the tenant's immediate family was in occupancy of the private dwelling with the tenant prior to the transfer of title and possession for a continuous period of two years, including:

(a) Entire structures or premises as distinguished from the individual housing accommodations contained therein, wherein twenty-five or less rooms are rented or offered for rent by any lessee, sublessee, or other tenant of such entire structure or premises; and

(b) Housing accommodations which, under subparagraph (i) of paragraph two of this subdivision e, are or at any time become exempt from or not subject to control and which, while in such status, are certified by a city agency having jurisdiction to be a fire hazard or in a continued dangerous condition or detrimental to life or health; and the subsequent removal of the conditions on which such certification is based shall not cause any such housing accommodation to become exempt from or not subject to control; and

(c) Notwithstanding any other provision of this chapter, all housing accommodations in any multiple dwelling aided by a loan made by the city under article eight of the private housing finance law; provided that where any such housing accommodation, if this subparagraph (c) were not applicable thereto, would not be subject to rent control under this chapter and the regulations thereunder prior to the date on which rent control with respect to such multiple dwelling is required by the provisions of such article eight to begin, this subparagraph (c) shall operate to make such housing accommodation subject to rent control under this chapter and the regulations thereunder only on and after such date; and provided further that if any such housing accommodation, on the date on which rent control with respect thereto ceases to be required by such article eight, would not be subject to rent control, or would be eligible for decontrol on the landlord's application, under the provisions of this chapter and the regulations thereunder, if this subparagraph (c) were not applicable thereto, then such housing accommodation, after such date, shall not be subject to rent control, or shall be eligible for decontrol, as the case may be, in the same manner as if this subparagraph (c) had not been applicable to such housing accommodation.

2. The term "housing accommodation" shall not include:

(a) structures in which all of the housing accommodations are exempt or not subject to control under this chapter or any regulation issued thereunder; or

(b) a hospital, convent, monastery, asylum, public institution, or college or school dormitory or any institution operated exclusively for charitable or educational purposes on a non-profit basis; or

(c) notwithstanding any previous order, finding, opinion or determination of the state rent commission, housing accommodations in any establishment which on March first, nineteen hundred fifty, was and still is commonly regarded as a hotel in the community in which it is located and which customarily provides hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures and bellboy service, provided, however, that the term "hotel" shall not include any establishment which is commonly regarded in the community as a rooming house, nor shall it include any establishment not identified or classified as a "hotel", "transient hotel" or "residential hotel" pursuant to the federal act, irrespective of whether such establishment either provides some services customarily provided by hotels, or is represented to be a hotel, or both; and provided further that housing accommodations in hotels which have been and still are occupied by a tenant who has resided in such hotel continuously since December second, nineteen hundred forty-nine, so long as such tenant occupies the same, shall continue to remain subject to control under this chapter; or

(d) Any motor court, or any part thereof; any trailer or trailer space used exclusively for transient occupancy or any part thereof (provided that nothing herein contained shall be construed as legalizing or authorizing any use or

occupancy of a trailer or trailer space where prohibited by law); or any tourist home serving transient guests exclusively, or any part thereof; or

(e) Nonhousekeeping, furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if: (1) no more than two tenants for whom rent is paid (husband and wife being considered one tenant for this purpose), not members of the landlord's immediate family, live in such dwelling unit; and (2) the remaining portion of such dwelling unit is occupied by the landlord or his or her immediate family; or

(f) Housing accommodations owned and operated by the United States, the state of New York, or the New York city housing authority; or owned by the city and under the jurisdiction of the city department of housing preservation and development pursuant to the New York city charter; or owned and operated by the city; or housing accommodations in buildings in which rentals are fixed by or subject to the supervision of the state commissioner of housing and community renewal;

(g) Housing accommodations in buildings operated exclusively for charitable purposes on a non-profit basis; or

(h) Except as otherwise provided in item six of subparagraph (i) of this paragraph two, housing accommodations which were completed on or after February first, nineteen hundred forty-seven, provided, however, that, the former structure or any lesser portion thereof, was not vacated, on or after the effective date of this first provision of this subparagraph (h), other than by voluntary surrender of possession or in the manner provided in this chapter, and provided further that maximum rents established under the veterans' emergency housing act, for priority constructed housing accommodations completed on or after February first, nineteen hundred forty-seven, shall continue in full force and effect, if such accommodations are being rented to veterans of world war II or their immediate families who, on June thirtieth, nineteen hundred forty-seven, either occupied such housing accommodations or had a right to occupy such housing accommodations at any time on or after July first, nineteen hundred forty-seven, under any agreement whether written or oral; or

(i) Except as otherwise provided in subparagraphs (b) and (c) of paragraph one of this subdivision e: (1) Housing accommodations created by a change from a non-housing use to a housing use on or after February first, nineteen hundred forty-seven, but only if the space comprising such accommodations was devoted to a non-housing use on February first, nineteen hundred forty-seven; or

(2) Additional housing accommodations, other than rooming house accommodations, created by conversion on or after February first, nineteen hundred forty-seven; provided, however, that any housing accommodations created as a result of any such conversion on or after May first, nineteen hundred fifty, shall continue to be subject to rent control as provided for herein unless the state rent commission, prior to May first, nineteen hundred sixty-two, issued an order decontrolling them, or the city rent agency, on or after such date, issues an order decontrolling them; and the city rent agency shall issue such an order if there has been a structural change involving substantial alterations or remodeling and such change has resulted in additional housing accommodations consisting of self-contained family units as defined by regulations issued by the city rent agency, with due regard for the shortage of housing accommodations suitable for family occupancy and for the purposes of this chapter in relation thereto; and provided further, that any such order of decontrol of the state rent commission or the city rent agency shall remain effective after April thirtieth, nineteen hundred sixty-two only so long as the housing accommodations are not occupied for other than single family occupancy; and provided further, that any such order of decontrol shall not apply to that portion of the original housing accommodations occupied by a tenant in possession at the time of the conversion, but only so long as that tenant continues in occupancy; and provided further, that no such order of decontrol shall be issued unless such conversion occurred after the entire structure, or any lesser portion thereof as may have been thus converted, was vacated by voluntary surrender of possession, or in the manner provided in this chapter, or (where vacated prior to May first, nineteen hundred sixty-two) in the manner provided by section five of the state rent act; and provided further that notwithstanding any of the foregoing provisions of this item two, no such order of decontrol shall be issued with respect to housing accommodations of any type resulting from conversion, after April thirtieth, nineteen hundred sixty-two, to

rooming house accommodations or to single room occupancy accommodations, and such resulting accommodations shall continue to be housing accommodations subject to rent control under this chapter and the regulation thereunder; or

(3) Housing accommodations rented after April first, nineteen hundred fifty-three, which were or are continuously occupied by the owner thereof for a period of one year prior to the date of renting; provided, however, that this item three shall not apply where the owner acquired possession of the housing accommodation after the issuance of a certificate of eviction under subdivision two of section five of the state rent act or under subdivision b of section 26-408 of this chapter within the two year period immediately preceding the date of such renting, and provided further that this item three shall not apply to any such housing accommodation rented on or after May first, nineteen hundred sixty-two, where an exemption of any housing accommodation in the same building was obtained under paragraph (h) of subdivision two of section two of the state rent act or has been previously obtained under this item three; and provided further, that this exemption shall remain effective only so long as the housing accommodations are not occupied for other than single family occupancy; or

(4) Housing accommodations in one or two family houses which were or shall become vacant on or after April first, nineteen hundred fifty-three; provided, however, that this exemption shall remain effective only so long as the housing accommodations are not occupied for other than single family occupancy; or

(6) (i) Such housing accommodations resulting from substantial demolition (as such accommodations are defined in this item six), as are decontrolled by order of the city rent agency pursuant to this item six; provided that all housing accommodations resulting from substantial demolition which are not so decontrolled shall continue to be housing accommodations subject to rent control under this chapter and the regulations thereunder.

(ii) The term "housing accommodation resulting from substantial demolition", as used herein, shall mean any housing accommodation (a) which is created on or after May first, nineteen hundred sixty-two, as a result of the substantial demolition of a multiple dwelling and the reconstruction of such building in such manner as to retain any portion thereof existing prior to such demolition, and (b) which is so created after the issuance of one or more certificates permitting the eviction of any tenant or tenants of such multiple dwelling for the purpose of effecting such demolition.

(iii) No order shall be issued under this item six decontrolling any housing accommodation resulting from substantial demolition unless, after such reconstruction, all housing accommodations in the building are self-contained family units as defined by regulations issued by the city rent agency, with due regard for the shortage of housing accommodations suitable for family occupancy and for the purposes of this chapter in relation thereto.

(iv) The city rent agency shall issue regulations, with due regard for such shortage and purposes, specifying minimum requirements for qualifying any housing accommodation resulting from substantial demolition as suitable for occupancy by larger families (including, with respect to the individual unit, but not limited to, number of rooms, space suitable for sleeping purposes and total floor area) and likewise prescribing, subject to such variations and classifications as such agency may determine to be reasonably necessary, the ratio between the total number of housing accommodations resulting from substantial demolition in the building, and the number of such accommodations which must meet such requirements for larger family occupancy, in order that a decontrol order may be granted hereunder.

(v) The city rent agency shall issue an order decontrolling all of the housing accommodations resulting from substantial demolition in the building, if such accommodations meet the requirements of sub-item (iii) of this item six, and if the prescribed proportion thereof meets the requirements of sub-item (iv) of this item six for larger family occupancy; provided that (a) if all such accommodations meet the requirements of such sub-item (iii), but less than the prescribed proportion thereof meet the requirements of such sub-item (iv), then the city rent agency shall issue an order decontrolling only those accommodations which meet the requirements of both such sub-items; and (b) any order of decontrol issued under this item six shall remain effective only so long as the accommodations decontrolled by such order are not occupied for other than single family occupancy.

(vi) In the case of any housing accommodations vacated on or after March twenty-sixth, nineteen hundred sixty-four, no order of decontrol shall be issued under this item six for any housing accommodations resulting from substantial demolition thereof unless such reconstruction occurred after the structure was vacated by voluntary surrender of possession, or in the manner provided in this chapter; or

(7) (i) Individual housing accommodations having unfurnished maximum rents of two hundred and fifty dollars or more per month as of April first, nineteen hundred sixty, or furnished maximum rents of three hundred dollars or more per month as of April first, nineteen hundred sixty, which are or become vacant on or after the effective date of this item seven; or

(ii) On and after October first, nineteen hundred sixty-four individual housing accommodations having unfurnished maximum rents of three hundred dollars or more per month as of April first, nineteen hundred sixty, or furnished maximum rents of three hundred and sixty dollars or more per month as of April first, nineteen hundred sixty; provided, however, that where any such housing accommodation is occupied by a tenant whose household contains one or more children attending an elementary or secondary school, such housing accommodation shall continue to remain subject to control under this chapter and the regulations thereunder until June thirtieth, nineteen hundred sixty-five; and provided further, that where such housing accommodation on March twenty-sixth, nineteen hundred sixty-four is occupied by a tenant whose household contains four or more related persons, it shall continue to remain subject to control under this chapter and the regulations thereunder so long as such tenant remains in occupancy; or

(iii) On and after April first, nineteen hundred sixty-five individual housing accommodations having unfurnished maximum rents of two hundred and fifty dollars to two hundred ninety-nine dollars and ninety-nine cents, inclusive, per month as of April first, nineteen hundred sixty, or furnished maximum rents of three hundred dollars to three hundred fifty-nine dollars and ninety-nine cents inclusive, per month as of April first, nineteen hundred sixty; provided, however, that where any such housing accommodation is occupied by a tenant whose household contains one or more children attending an elementary or secondary school, such housing accommodation shall continue to remain subject to control under this chapter and the regulations thereunder until June thirtieth, nineteen hundred sixty-five; and provided further, that where such housing accommodations on March twenty-sixth, nineteen hundred sixty-four is occupied by a tenant whose household contains four or more related persons, it shall continue to remain subject to control under this chapter and the regulations thereunder so long as such tenant remains in occupancy.

(iv) The exemptions provided for in this item seven shall remain effective only so long as the housing accommodations are not occupied for other than single family occupancy.

(v) The term "related persons", as used in this item seven, shall be limited to the tenant and a parent, grandparent, child, stepchild, grandchild, brother or sister of the tenant or of the tenant's spouse or the spouse of any of the foregoing, who customarily occupied the housing accommodation on and before the effective date of this item seven. The tenant's spouse or an unmarried child or grandchild of the tenant who temporarily resided elsewhere on the effective date of this item seven because of attendance at an educational institution or service in the armed forces of the United States shall be deemed to be a related person in occupancy.

(8) No more than two housing accommodations in any one year period in an owner-occupied structure containing six or fewer housing accommodations which are or become vacant on or after August first, nineteen hundred seventy, by voluntary surrender or pursuant to section 26-408 of this chapter; provided, however, that this exemption shall remain effective only so long as the housing accommodations are not occupied for other than residential dwelling purposes; and provided further, that if the city rent agency shall make a finding of harassment in violation of subdivision d of section 26-412 of this chapter with respect to a housing accommodation in a structure containing six or less housing accommodations, in addition to all other criminal or civil fines, penalties, injunctive relief and enforcement penalties and remedies authorized by section 26-413 of this chapter, no housing accommodation in such structure shall be decontrolled pursuant to this item eight until a minimum period of three years has elapsed since the making of such finding of harassment by the city rent agency. Structures containing six or fewer housing accommodations shall be

considered to be structures containing six or fewer housing accommodations for the purposes of this item eight, notwithstanding that such structures shall contain commercial accommodations in addition to such housing accommodations.

(9) Housing accommodations which became vacant on or after June thirtieth, nineteen hundred seventy-one, provided, however, that this exemption shall not apply or become effective with respect to housing accommodations which the commissioner determines or finds became vacant because the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and provided, further, however, that nothing contained herein shall be deemed to preclude the applicability to such housing accommodations of the emergency tenant protection act of nineteen seventy-four.

(10) Housing accommodations not occupied by the tenant, not including subtenants or occupants, as his or her primary residence, as determined by a court of competent jurisdiction. No action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds.

(j) Upon the issuance of an order of decontrol by the division, housing accommodations which: (1) are occupied by persons who have a total annual income in excess of one hundred seventy-five thousand dollars per annum in each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter; and (2) have a maximum rent of two thousand dollars or more per month. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

(k) Any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the maximum rent was two thousand dollars or more per month, or any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 with a maximum rent of two thousand dollars or more per month. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a month. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law. This subparagraph shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

f. "Landlord." An owner, lessor, sublessor, assignee, or other person receiving or entitled to receive rent for the use or occupancy of any housing accommodation or an agent of any of the foregoing.

g. "Maximum rent." The maximum lawful rent for the use of housing accommodations. Maximum rents may be formulated in terms of rents and other charges and allowances.

h. "Person." An individual, corporation, partnership, association, or any other organized group of individuals or the legal successor or representative of any of the foregoing.

i. "Rent." Consideration, including any bonus, benefit or gratuity demanded or received for or in connection

with the use or occupancy of housing accommodations or the transfer of a lease of such housing accommodations.

j. "State Enabling Act." The local emergency housing rent control act.

k. "State Rent Act." The emergency housing rent control law.

l. "State rent commission." The temporary state housing rent commission created by the emergency housing rent control law.

m. "Tenant." A tenant, subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any housing accommodation.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. e par 1 open par amended ch. 679/1994 § 3, eff. Aug. 2, 1994 and applying to transfers of

title and possession after that date and expire when the housing public emergency expires.

Subd. e par 2 subpar (j) amended chap 116/1997 § 11, eff. Jan. 1, 1998.

Subd. e par 2 subpar (j) amended L.L. 4/1994 § 1, eff. Mar. 30, 1994.

Subd. e par 2 subpar (j) added ch. 253/1993 § 4, eff. July 7, 1993.

Subd. e par 2 subpar (k) amended chap 82/2003 § 5, eff. June 20, 2003.

Subd. e par 2 subpar (k) amended chap 116/1997 § 12, eff. June 19, 1997 and applying to housing

accommodations vacant on or after June 19, 1997.

Subd. e par 2 subpar (k) amended L.L. 13/1997 § 1, eff. Mar. 31, 1997.

Subd. e par 2 subpar (k) amended L.L. 4/1994 § 1, eff. Mar. 30, 1994.

Subd. e par 2 subpar (k) added ch. 253/1993 § 4, eff. July 7, 1993.

DERIVATION

Formerly § Y51-3.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1528

(formerly § Y41-3.0)

Subs a, b amended chap 100/1963 § 1528

Sub e par 1 subpar d amended chap 100/1963 § 1529

Sub e par 2 subpar i item 3 amended chap 100/1963 § 1530

Sub e par 2 subpar i item 5 amended chap 100/1963 § 1531

Sub e par 2 subpar h amended LL 67/1963 § 1

Sub e par 2 subpar i item 6 amended LL 67/1963 § 2

Sub e par 2 subpar i item 6 amended LL 13/1964 § 1

Sub e par 2 subpar i item 7 added LL 13/1964 § 2

Subs a, b amended LL 58/1967 § 20

Sub e par 2 subpar i item 8 added LL 30/1970 § 10

Sub e par 1 subpar d repealed LL 60/1975 § 10

(special provision, continued tax exemption/abatement, LL 60/1975 § 10)

Sub e par 2 subpar i item 2 amended LL 60/1975 § 11

Sub e par 1 open par amended chap 69/1980 § 3

(legislative findings, rights of family, vacancy decontrol, chap 69/1980 § 1)

Sub e par 2 subpar f amended chap 942/1981 § 1

Sub e par 2 subpar f amended chap 845/1982 § 1

Subs a, b amended chap 403/1983 § 22

Sub e para 2 subpar i items 9, 10 added chap 403/1983 § 42

CASE NOTES FROM FORMER SECTION

¶ 1. The provisions of this section defining the term "hotel" for rent control purposes are valid and constitutional. Contention was rejected that the provisions of this section deprived those who owned or operated accommodations having hotel status on March 1, 1950, but were unable to prove that their accommodations had hotel status on June 30, 1947 of a previously acquired statutory right without due process. 378 Realty Corp. v. New York City Rent and Rehabilitation Admr., 13 NY2d 817, 242 NYS2d 347 [1963], aff'd 39 Misc 2d 30, 240 NYS2d 58 [1963].

¶ 2. The definition of a hotel in subd. e, par. 2, of this section is constitutional. 378 Realty Corp. v. New York City Rent and Rehabilitation Administration, 39 Misc 2d 30, 240 NYS2d 58 [1963], aff'd 13 NY2d 817, 242 NYS2d 347.

¶ 3. Refusal of City Rent and Rehabilitation Administration to decontrol apartment was proper where building was owned by corporation and individual and individual while having a permanent residence with his family occupied apartment from time to time for about two years in order to have a place to stay during the time he worked in maintaining the house and other houses owned by him in the same neighborhood. Golgrace Realty Co. v. City Rent & Rehab. Administration, 50 Misc 2d 139, 269 NYS2d 886 [1966].

¶ 4. Provision of rent control law including within housing subject to rent control a plot or parcel of land rented prior to May 1, 1950 for purpose of permitting tenant to construct his own private dwelling and on which there exists such a private dwelling owned and occupied by the tenant was constitutional and not subject to decontrol under this section. Matter of Federated Homes v. Berman, 24 NY2d 978, 302 NYS2d 600 [1969], aff'g, 31 App. Div. 2d 624, 625, 296 NYS2d 962, 963 [1968].

¶ 5. Apartment in four family apartment house which had been decontrolled prior to May 1, 1962 was brought within the control of the City Rent Act where it was not rented until after that date and another apartment in the premises had been previously decontrolled. Bueno Realty Corp. v. Berman, 30 AD2d 860, 293 NYS2d 62 [1968].

¶ 6. Multiple dwelling owned by limited profit housing company and organized under the New York Private Housing Finance Law and financed by mortgages made to the New York State Housing Finance Agency was not public housing and such apartments are not subject to New York City rent control laws. Matter of Fuller v. Urstadt, 61 Misc 2d 988, 307 NYS2d 91 [1970], aff'd, 35 App Div 2d 537, 313 NYS2d 160.

¶ 7. Although premises constructed in 1976 with § 236 National Housing Act subsidy were not subject to rent control, tenant could be evicted only for good cause and was entitled to procedural due process in determination of whether cause exists since joint state and federal government participation in affording housing for the poor placed project within protection of the Fourteenth Amendment. Hudsonview Terrace, Inc. v. Maury, 100 Misc 2d 331, 419 NYS2d 409 [1979].

¶ 8. Where an apartment was occupied by a sister of the tenant of record, both of whom at one time had lived there together, and tenant of record continued to pay the rent, the apartment was not subject to decontrol on the ground that it was not the primary residence of the tenant, the test of tenancy for purposes of this section being not whether apartment is occupied by tenant of record or whether the rent is personally paid by the person in possession but whether it is occupied by the person entitled to possession. Herzog v. Joy, 74 AD2d 372 [1980].

¶ 9. Landlord was entitled to possession of apartment on ground that it was occupied by a person, other than a member of the tenant's immediate family where the tenant was living there with another woman since "lesbians living together" do not constitute members of the other's immediate family. Avest Seventh Corp. v. Ringelheim, 109 Misc 2d 284 [1981].

¶ 10. Lease for apt. owned by Columbia University did not contain an affiliation clause so purportedly unauthorized person who had been rent-controlled tenant for 27 years after prime affiliated tenant had vacated premises, was protected from eviction as a month-to-month tenant. Premises were ruled subject to Rent Control. Trustees of Columbia University v. Lorch, 189 (8) NYLJ (1-12-83), 12, col. 3M.

¶ 11. This section, providing for thirty day notices to terminate the tenancy of rent-controlled tenants is effective April 1, 1984 and any notices served before such date are premature and ineffective. Parkview Assoc. v. Lalor, 124 Misc 2d 998 [1984].

CASE NOTES

¶ 1. Non-purchasing tenant in a rent controlled apartment building converting to cooperative ownership may not be evicted because of nonprimary residence. Tenant married another tenant of building and used both apartments for residential purposes. Both apartments contain only 1,134 square feet. The apartments are one combined primary residence. E. 18th St. Assoc. v. Sijacki, 138 Misc 2d 494 [1987].

¶ 2. Legal definition of "family" (as it relates to noneviction proceedings) expanded to include homosexual couples living together. Miguel Braschi may inherit the rent-controlled apartment he shared with his male lover. Dispute arises because the term "family" is not defined in the rent-control code. However the rent-control laws are remedial in nature, designed for the public good and should be interpreted broadly. In this case, Braschi and Leslie Blanchard were "permanent life partners" together for 10 years, regarding each other as spouses. A new test for determining the qualifications for "family" are (1) "exclusivity and longevity" of a relationship, (2) "level of emotional and financial commitment", (3) how the couple "conducted their everyday lives and held themselves out to society" and (4) the "reliance placed upon one another for daily family services". Braschi v. Stahl Assoc. Co., 74 NY2d 201 [1989].

¶ 3. A critical requirement of rent control is that the tenant maintain the apartment as a primary residence. The legislative purpose in permitting eviction of tenants who do not use their units as their primary residence was to ensure that the continuing shortage of rental housing was not exacerbated by tenants using their apartments only occasionally for convenience or for storage. Cox v. J.D. Associates, 217 A.D.2d 179, 637 N.Y.S.2d 27 (App.Div. 1st Dept. 1995).

¶ 4. Where a landlord prevails in a non-primary residence proceeding against a statutory rent controlled tenant, and the attorney fee clause in the now expired lease is deemed to be projected into the statutory tenancy, the landlord is entitled to an award of attorney's fees. Duell v. Condon, 84 N.Y.2d 773, 622 N.Y.S.2d 891.

¶ 5. This section provides for recontrol of units previously decontrolled where the city determines the building is a fire hazard or in a dangerous condition or detrimental to life or health. Under this provision, housing accommodations which were rented on or after April 1, 1953 can be recontrolled. Legra v. New York State Division of Housing and Community Renewal, 194 A.D.2d 667, 599 N.Y.S.2d 102 (2nd Dept. 1993).

¶ 6. Under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Resolution Trust Corp. (RTC) was created for the purpose of managing the assets of failed financial institutions. The court held that under the RTC's powers to repudiate contracts, it could repudiate a rent controlled tenancy. The tenants and the State of New York argued that the tenancy was statutory rather than contractual in nature, but the court found that the federal law pre-empted the state scheme of rent regulation. A rent controlled tenancy would expire one year from the date the tenant was served with notice of the RTC's election to repudiate the lease. Resolution Trust Corp v. Diamond, 45 F.3d 665 (2nd Cir. 1995).

¶ 7. A notice purporting to terminate a rent controlled tenancy on the ground of non-primary resident cannot merely state that the tenant does not maintain the apartment as a primary residence. The underlying facts regarding non-primary residence must be stated. Kaycee West 113th Street Corp. v. Diakoff, 160 A.D.2d 573, 554 N.Y.S.2d 216 (1st Dept. 1990).

¶ 8. The court found that where a rent controlled tenant subleased the apartment to a series of occupants, collected rent substantially higher than the lawful rent and was listed as the head of the household in a regulated cooperative at another location, the tenant did not maintain the subject apartment as a primary residence and thus could be evicted. Manhattan Apartments v. Pflesinger, N.Y.L.J., Nov. 1, 1995, page 30, col. 2 (App.Term 1st Dept.).

¶ 9. A tenant who is serving a sentence of 15 years to life after conviction of murder in the second degree, cannot reasonably deemed to have a primary residence in the apartment which he occupied prior to the conviction. Emay Properties Corp. v.. Norton, 136 Misc.2d 127, 519 N.Y.S.2d 90 (App.Term 1st Dept. 1987).

¶ 10. A husband and wife moved into an apartment under the terms of a lease signed only by the husband. The lease later expired, but the parties remained as statutory tenants under rent control. Many years later, they entered into a separation agreement under which during his lifetime, the wife would have the sole right to use and occupy the apartment, and that upon her death, the husband could return and exercise the same right. The husband then vacated the apartment and established a residence elsewhere. The wife occupied the apartment, living alone until her granddaughter moved in. After the husband moved out, a plan for converting the building to cooperative ownership was accepted for filing by the Attorney General. Under that plan, each "tenant in occupancy" had the right to purchase the shares allocated to his or her apartment at a discounted "insider" price. Both the husband and the wife sought to exercise this right by tendering subscription agreements and down payments, but the sponsor refused to let either spouse purchase the apartment without the other. The wife then brought an action seeking a declaratory judgment that she had the sole right to purchase the shares. After the wife died, the granddaughter took over the action. The court held that the granddaughter, whose rights were derived from the wife, had the sole right to purchase the apartment. The reason was that the wife had been a "tenant in occupancy" at the time for exercise of the right to purchase. She had been entitled to occupy the apartment under the rent control laws so long as she continued to pay the rent, while the husband had relinquished his right to occupy the apartment several years before the critical date. Weinstein v. Hohenstein, 122 A.D.2d 842, 505 N.Y.S.2d 905 (2nd Dept. 1986), aff'd 69 N.Y.2d 1017, 517 N.Y.S.2d 907 (1987).

¶ 11. The tenant qualified as a primary resident where he lists the Manhattan address on his driver's license, voter registration and city income tax, has a bank account in New York, is active in Manhattan community organizations and receives ongoing care from medical professionals here. The tenant was found to have a sufficient nexus to New York

even though he resides for half the year at a Florida cooperative apartment. Center for Modern Psychoanalytic Studies v. Doe, N.Y.L.J., Nov. 6, 1998, page 21, col. 2 (App.Term 1st Dept.).

¶ 12. Where the landlord prevails in a primary residence case as against a rent controlled tenant, the landlord is entitled to an award of use and occupancy (generally much higher than controlled rents) running from the date that the notice of termination was served upon the tenant, not from the later time that the court determines that the tenant was not a primary resident. King Enterprises, Inc. v. Guelaff, N.Y.L.J., Oct. 15, 1997, at 26, col. 4 (Civ.Ct. New York Co.). This is in line with Epsom Downs v. Allen, Apr. 16, 1993, at 25, col. 3 (App.Term 1st Dept.).

¶ 13. A mere allegation in the notice of termination that the tenant is married to a German national and maintains a home in Germany is not enough to sustain a primary residence proceeding. The petition would have to be more specific as to the factors showing that the tenant lacks a sufficient nexus to qualify for primary residence, referring to such items as voting records or use of the apartment. It is not enough to allege that the tenant has a residence elsewhere, since the tenant's connection to that other home might be limited to mere ownership or occasional use as vacation home. H.O. Realty Corp. v. Fernandez, N.Y.L.J., Jan. 28, 1998, at 27, col. 3 (Civ.Ct. New York Co.).

¶ 14. A vaguely articulated intent to return to the apartment at some unspecified time in the future is insufficient to defend a non-primary residence claim. See 1286 First Realty Assocs. v. Malatinsky, 176 Misc.2d 596, 675 N.Y.S.2d 25 (App.Term 1st Dept. 1998) (tenant has been absent from Manhattan apartment for several years, living in a health care facility for a time and then in an apartment in Queens, and had not filed tax returns or voted from the Manhattan address in several years).

¶ 15. Although proof that the tenant has had very low utility usage is strong evidence of non-primary residence, it is not conclusive. In one case, the tenant successfully defended a non-primary residence proceeding despite the low level of utility usage. The tenant had filed tax returns using the address of the subject apartment, and explained the low utility usage by indicating that she had been hospitalized numerous times during the period in question. Great Northern Realty, Inc. v. Ward, N.Y.L.J., 9-30-99, page 28, col. 6 (App.Term 1st Dept.).

¶ 16. Where a rent controlled tenant obtained SCRIE benefits (senior citizen rent increase exemption) for a second (rent stabilized) apartment, the court held that the tenant had not maintained the rent controlled apartment as a primary residence. The court noted that the tenant had filed a services complaint (Adm. Code Sec. 26-514) with the state housing agency relating to the second apartment. The purpose of the rent regulation laws is to relieve housing shortages, and that purpose would not be achieved if a rent stabilized tenant were permitted to maintain a rent controlled apartment at the same time, the court said. Sullivan Properties, L.P. v. Sanabria, N.Y.L.J., Sept. 9, 1999, page 26, col. 2 (App.Term 1st Dept.).

¶ 17. One of the important factors in determining whether or not the tenant has maintained the apartment as a primary residence, is the amount of time that the tenant spends at the apartment. However, the mere fact that a tenant spends a substantial time away from the apartment does not compel a finding of non-primary residence. In one case, a tenant successfully defended a non-primary residence case, even though she owned some investment property in Freeland, Pennsylvania, which contained two residential units. The landlord pointed out that the tenant received much of her mail in Pennsylvania, but the tenant explained this by showing that the subject building had very small mail boxes which were not large enough to hold her mail, and that as a result she had been having difficulty receiving reliable mail service. The tenant was also helped by the fact that she had paid New York City income taxes even after acquiring the Pennsylvania property, and that she registered and insured her automobile in New York. Moreover, the tenant explained her frequent trips to Pennsylvania by the fact that she was having difficulty renting out the two apartments because of depressed economic conditions in this old coal mining area of Pennsylvania. Hart Future Co. v. Rose, N.Y.L.J., May 10, 2000, page 31, col. 2 (Civ.Ct. New York Co.).

¶ 18. The fact that a tenant spent a substantial amount of time in Guatemala doing charitable work, did not deprive her of her primary residence at the subject apartment, where there was no evidence that she intended to make Guatemala

her permanent home. The court also considered the facts that the tenant maintained utility accounts at the subject address, listed the apartment as her residence on a driver's license, paid New York City taxes and served as a juror in New York County. Carmine, Ltd. v. Duggan, N.Y.L.J., Dec. 27, 2000, page 22, col.2 (App.Term 1st Dept.).

¶ 19. In 23 Jones Street v. Keebler-Beretta, 186 Misc.2d 799, 721 N.Y.S.2d 452 (App.Term 1st Dept. 2000), a wife of a deceased tenant was claiming succession rights, claiming while her husband was alive, she resided with him at the subject apartment. Although this is technically a succession rights case, it contains some useful law concerning primary residence. The wife was able to establish primary residence through the testimony of witnesses who observed her going into the building with groceries, and through the testimony of a friend who had performed repairs for her and had seen her belongings in the apartment. Although she frequently received mail at another address, she was able to explain that through submission of evidence that there were security problems with the mailboxes in the subject building. Moreover, the fact that the wife did not introduce her tax returns as evidence of residence did not result in a negative inference against her; the landlord could have asked for copies of the tax returns during the pre-trial discovery phase, but never did so.

¶ 20. So long as there is no oppressive conduct or overreaching, a court will enforce a contract between a landlord and tenant under which the tenant agrees to vacate a rent controlled apartment in exchange for a sum of money ($10,000 in this case). Merwest Realty Corp. v. Prager, 264 A.D.2d 313, 694 N.Y.S.2d 38 (1st Dept. 1999).

¶ 21. Tenants of rent regulated apartments sometimes need to travel for business reasons. So long as they otherwise maintain their primary residence in New York City, and do not merely use the apartment as a convenient "pied a terre" for occasional visits, they are in compliance with the primary residence rules. Chelsmore Apartments v. Garcia, 189 Misc.2d 542, 733 N.Y.S.2d 329 (Civ.Ct. New York Co. 2001).

¶ 22. In one case, a rent-controlled tenant successfully defended a non-primary residence proceeding. Even though the tenant was absent from the apartment and stayed with a friend for nearly a two-year period, the tenant (who had lived in the apartment as a primary residence during the previous 30 years) was able to explain the absence by showing that the apartment was being refurbished and was cluttered and dirty while the work was going on. Ascot Realty, LLC v. Richstone, 10 A.D.3d 513, 781 N.Y.S.2d 513 (1st Dept. 2004), leave to appeal dismissed, 4 N.Y.3d 842, 797 N.Y.S.2d 413 (2005).

¶ 23. In a non-primary residence holdover proceeding, the tenant contended that his store front unit was not a "housing accommodation" within the meaning of Sec. 26-403(e)(1), and that a residential holdover proceeding did not lie. The tenant stated that the premises were primarily used as a painting and dance studio, but also admitted that he kept his belongings there, and the place was furnished when he initially occupied it in 1967. Photographs offered by the tenant revealed that the unit was fully decorated and equipped for independent living. He used the unit for sleeping and housing overnight guests. Even though toilet facilities were shared with other tenants, this was still a residential unit within the statutory definition. The unit, which contained a sofa bed, dresser, refrigerator and stove, was equipped for residential use when he moved in, and the tenant acknowledged the residential nature of his tenancy in several prior court and administrative proceedings, including a harassment proceeding in which he said he had lived in the unit since 1967. Thus, the court concluded that this was a housing accommodation, and set aside a jury's findings that the premises were not a housing accommodation. Brullo v. Myers, 11 Misc.3d 26, 812 N.Y.S.2d 733 (App. Term 1st Dept. 2006).

¶ 24. In one case, the court had to determine whether a tenant was protected by rent control or whether the apartment was vacant since July 1, 1971 and was therefore decontrolled. The court held that even though a tenant did not move into the subject apartment after July 1, 1971, where the tenant received the keys to the apartment in May 1971 and did not move in until renovations to the apartment and installations of appliances was completed, the tenant qualified for rent control. Moreover, the tenant did not lose rent control status by virtue of moving in 1978 from one rent-controlled apartment to another at the request of the prior landlord. Saad v. Elmuza, 12 Misc.3d 57, 818 N.Y.S.2d 414 (App.Term 2nd & 11th Judic. Dists. 2006).

¶ 25. In Lex & Third 116th Street Corp. v. Marrero, 23 Misc.3d 59, 880 N.Y.S.2d 453 (App.Term 1st Dept. 2009), the court found that the respondent tenant and his family had continuously occupied the subject apartment since before June 30, 1971, and that the apartment was subject to rent control. The tenant had acceded to the landlord's demand that he execute a rent stabilized lease for what the landlord misrepresented to be an unregulated apartment some 13 years after the rent controlled tenancy began. The court, however, said that this fact did not negate the tenant's otherwise persuasive showing that his father's tenancy was rent controlled. A contrary holding would have run afoul of the statutory proscription against agreements waiving the benefits of the rent control laws and ignoring the well-established principle that deregulation of apartments is only available through regular, officially authorized means and not by private compact.

¶ 26. Lana and Edward's Realty v. Darren Lipari, 2009 WL 1259047, 2009 NY Misc. Lexis 1065 (Civ. Ct. Kings 2009). This case was a non-payment proceeding brought by petitioner in response to respondent's rent overcharge claim. As a rent controlled tenant, respondent seeks treble damages and legal fees. Petitioner seeks to strike respondent's rent overcharge claim, and claims that apartment in question is not subject to rent control. Petitioner states that rent control laws do not apply to buildings of three or more units completed or converted to residential use prior to Feb. 1, 1947 and continuously occupied by the tenant or the tenant's successor since July 1, 1971, pursuant to NYC Admin. Code §26-403(e). According to the petitioner, the commercial unit in the building was not completed or converted to residential use prior to Feb. 1, 1947, and only the two residential units are relevant here. As applied here, petitioner contends that rent control status would be conferred if the unit was continuously occupied since April 1, 1953.

The case cited by the plaintiff (Saad v. Elmuza, 12 Misc.3d 57, 818 NYS2d 484 (App. Term 2d Dept., 2006) applies to buildings with three or more residential units, but does not address the specific issues in this case, the court opined. Specifically, it does not address whether after April 1, 1953, the vacancy of a residential apartment in a two family building with commercial space decontrols that unit. Administrative Code of the City of NY §26-403[e][2][4] removes Housing Accommodations in one or two family houses which were or shall become vacant on or after April 1, 1953 from rent control. The Appellate Div. 2d Dept found that the legislative intent was to decontrol only one or two family houses used exclusively for residential purposes. Therefore, this property which contains three units, two residential and one commercial, would not be covered by this exemption.

Under Admin. Code of the City of NY §26-403[e][2][9], housing units in buildings, other than one or two family homes, which become vacant after June 30, 1971, are no longer subject to rent control. Since the apartment here has been continuously occupied since June 30, 1971, the apartment remains subject to rent control regulation. Thus, the petition must be dismissed as petitioner did not make a prima facie case. Respondent is not a month to month tenant and a proceeding on this basis must fail, the court said.

¶ 27. In one case, where a rent controlled tenant married in 1969, his spouse became a rent controlled tenant in her own right. After their 35-year marriage became unraveled, the spouse was excluded from the apartment pursuant to an order of protection issued by a criminal court. Subsequently, the tenant and his spouse were granted a judgment of divorce; however, the judgment failed to address the rights of the parties relative to possession of the marital apartment. The court held that since no court had adjudicated the relative rights of the spouses to the apartment, the tenant could not use a summary proceeding as a device for removal of his ex-wife and the child of the marriage (the parties had a son). Cudar v. O'Shea, 24 Misc.3d 129(A), 2009 WL 1886828 (App.Term 2d Dept.).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-403.1

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-403.1 High income rent decontrol.

(a) For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons who occupy the housing accommodation as their primary residence other than on a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide sub-tenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the sublessor shall be considered.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a maximum rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty

days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of decontrol providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds one hundred seventy-five thousand dollars in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds one hundred seventy-five thousand dollars in each such year. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order of decontrol being issued by the division for such housing accommodation.

2. If the department of taxation and finance determines that the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order of decontrol providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the filing of the owner's petition with the division. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order of decontrol providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the last day on which the tenant or tenants were required to provide the information required by such paragraph. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to subparagraph (j) of paragraph two of subdivision e of section 26-403 of this code.

(e) Upon receipt of such order of decontrol pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

HISTORICAL NOTE

Section added ch. 253/1993 § 5, eff. July 7, 1993.

Subd. (b) amended chap 116/1997 § 13, eff. Jan. 1, 1998.

Subd. (b) amended L.L. 4/1994 § 2, eff. Mar. 30, 1994.

Subd. (c) pars 1, 2 amended chap 116/1997 § 13, eff. Jan. 1, 1998.

Subd. (e) added chap 116/1997 § 17-a, eff. June 19, 1997.

CASE NOTES

¶ 1. Widowed tenant was uncertain whether to include income of deceased husbands estate with her income as tenant and was allowed to submit corrected form. Correction did not concede tenants income in excess of threshold for administrative order of deregulation. Rent regulation reform act of 1993, Chap 253, adding Ad Cd §§26-403.1, 26-504.1-26-504.3 neither expressly authorizes nor prohibits amendments or corrections to tenant's income certification form. Classic Residences v. DHCR, 212 AD2d 418 [1995].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-403.2

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-403.2 Increase in maximum collectable rent.

Notwithstanding any provision of this law to the contrary in the case where all tenants occupying the housing accommodation on the effective date of this section have vacated the housing accommodation and a family member of such vacating tenant or tenants is entitled to and continues to occupy the housing accommodation subject to the protections of this law, if such accommodation continues to be subject to this law after such family member vacates, on the occurrence of such vacancy the maximum collectable rent shall be increased by a sum equal to the allowance then in effect for vacancy leases for housing accommodations covered by the rent stabilization law of nineteen hundred sixty-nine, including the amount allowed by paragraph five-a of subdivision c of section 26-511 of such law. This increase shall be in addition to any other increases provided for in this law including an adjustment based upon a major capital improvement, or a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodation, pursuant to section 26-405 of this law and shall be applicable in like manner to each second subsequent succession.

HISTORICAL NOTE

Section added chap 116/1997 § 25, eff. June 19, 1997.

CASE NOTES

¶ 1. An apartment was rented to a couple in 1949 and, years later, the couple's daughter became the successor tenant. Subsequently, the daughter's nephew became the successor tenant. The statutory amendment which entitled the landlord to charge a vacancy allowance to a second successor tenant became effective on June 19, 1997. The court

stated that where, as here, the nephew resided at the apartment prior to the effective date of the statute, the landlord would not be entitled to a vacancy allowance until the nephew vacated the apartment. Thus, if the nephew, when he vacates, is able to pass the apartment to a successor, the vacancy allowance provision will not be triggered until a **second**successor (past the nephew) takes over possession of the apartment. Vartarian v. Brady, 707 N.Y.S.2d 285 (Civ.Ct. New York Co. 1999).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-404

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-404 City rent agency; division of housing and community renewal.

The division of housing and community renewal shall have charge of and conduct through its own counsel any proceeding under this chapter of the code, except for the provisions of subdivision m of section 26-405 and section 26-406 of this chapter which shall be under the jurisdiction of the department for the aging and such other agency as the mayor shall designate.

HISTORICAL NOTE

Section amended L.L. 76/2005 § 1, eff. Oct. 10, 2005.

Section amended L.L. 40/1992 § 1, eff. July 1, 1992.

Section added chap 907/1985 § 1.

DERIVATION

Formerly § Y51-4.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1532

(formerly § Y41-4.0)

Sub f par 1 amended LL 40/1967 § 1

Subs a, b, d repealed LL 58/1967 § 1

Sub c amended LL 58/1967 § 20

Amended chap 403/1983 § 23

(Transition provisions, chap 403/1983 §§ 27-33.)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-405

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-405 General powers and duties of the city rent agency.

a. (1) At the time this chapter shall become effective, the city rent agency shall establish maximum rents which, subject to the provisions of subdivision b of this section, shall be the maximum rents in effect on April thirtieth, nineteen hundred sixty-two pursuant to the state rent act and the regulations thereunder.

(2) (a) Notwithstanding the foregoing provision of this subdivision, and except as provided in subparagraph (b) of this paragraph two, effective August first, nineteen hundred seventy, the maximum rent in effect on July thirty-first, nineteen hundred seventy shall be adjusted as follows: (i) For any individual housing accommodation for which one or more but less than two full fifteen per centum rent increases has been granted since May first, nineteen hundred fifty-three pursuant to former subparagraph (d) of paragraph one of subdivision g of this section the maximum rent shall be increased by eight per centum.

(ii) For any individual housing accommodation for which no full fifteen per centum rent increase has been granted since May first, nineteen hundred fifty-three pursuant to former subparagraph (d) of paragraph one of subdivision g of this section the maximum rent shall be increased by fifteen per centum, except that if there was no such increase for any individual housing accommodation for which a first rent was established pursuant to former subdivision m of this section after July thirty-first, nineteen hundred sixty-five and before August first, nineteen hundred sixty-eight, the maximum rent shall be increased by five per centum, and except that if there was no such increase for any individual housing accommodation for which a first rent was established pursuant to such subdivision on or after August first, nineteen hundred sixty-eight there shall be no increase in maximum rent. On or after August first, nineteen hundred seventy, a landlord may file application for labor cost rent adjustment pursuant to subparagraph (l) of paragraph (1) of subdivision g of this section. In lieu of such labor cost rent adjustment, the landlord of a building

with twenty or fewer housing accommodations shall have the option of filing for a five per centum increase in maximum rent for any individual housing accommodation for which two or more full fifteen per centum increases have been granted since May first, nineteen hundred fifty-three pursuant to former subparagraph (d) of paragraph one of subdivision g of this section.

Nothing contained in this subparagraph (a) however, shall have the effect of establishing the maximum rent in an amount less than the maximum rent in effect on July thirty-first, nineteen hundred seventy nor of increasing by more than fifteen per centum the maximum rent for any housing accommodation.

(b) Where the maximum rent in effect on July thirty-first, nineteen hundred seventy for any individual housing accommodation is less than sixty dollars per month such rent shall be increased effective August first, nineteen hundred seventy by ten dollars per month where the housing accommodation is comprised of three rooms or less and by fifteen dollars per month where the housing accommodation is comprised of more than three rooms.

(c) Where a lease is in effect for any housing accommodation on August first, nineteen hundred seventy, no adjustment of maximum rent for such accommodation shall become effective until the expiration of such lease. Where a housing accommodation becomes vacant on or after August first, nineteen hundred seventy and before January first, nineteen hundred seventy-two by voluntary surrender of possession by the tenant the maximum rent shall be increased by no more than fifteen per centum over the maximum rent established for such accommodation at the time the vacancy occurred, provided that a report is filed with the city rent agency as prescribed by its regulations. If the city rent agency shall make a finding of harassment in violation of subdivision d of section 26-412 of this chapter for the purpose of obtaining such a vacancy, in addition to all other civil or criminal penalties, injunctive relief and enforcement remedies authorized by section 26-413 of this chapter, no housing accommodation in the building shall thereafter be entitled to the benefit of a rental increase as a result of becoming vacant between the aforesaid dates.

(d) The total of (i) the increase pursuant to subparagraph (a) of this paragraph, or (ii) any increases granted between December thirty-first, nineteen hundred sixty-nine and December thirty-first, nineteen hundred seventy-one pursuant to subparagraph (a), (b), or (c) of paragraph one of subdivision g of this section and (iii) any increase granted on or after the effective date of this paragraph pursuant to subparagraph (l) of paragraph one of subdivision g of this section shall not exceed fifteen per centum of the "1970 base rent". For purposes of this subparagraph, the "1970 base rent" is the maximum rent on July thirty-first, nineteen hundred seventy minus the amount of any increase granted between December thirty-first, nineteen hundred sixty-nine and July thirty-first, nineteen hundred seventy pursuant to subparagraph (a), (b), or (c) of paragraph one of subdivision g of this section. This subparagraph shall not operate to decrease any maximum rent existing on its effective date.

(e) The rent increases provided for in this paragraph two shall be collectible upon the landlord's filing a report with the city rent agency on forms to be prescribed by such agency, including simplified forms for landlords of buildings with twelve or fewer housing accommodations, and giving such notice to the tenant as such agency may prescribe, subject to adjustment upon order of the city rent agency. The report shall contain a certified statement by the landlord that there is no legally habitable rent controlled housing accommodation in the building which has not been rented for a period of six months or more on the date of the filing of such report, or that if there is such a housing accommodation, the reasons it has not been rented is that it is being altered pursuant to a permit issued by the department of buildings no later than three months after the vacancy commenced and that the alteration is of such a nature that the accommodation must be kept vacant while it is being made or for such other cause found by the city rent agency not to be inconsistent with the purpose of this chapter, provided further that in the case of an alteration it is commenced within sixty days from the issuance of said permit. A copy of the permit and the application therefor shall accompany the report. No report shall be accepted for filing and no rent increase provided for in this paragraph two shall be collected in the absence of any such certified statement by the landlord. Any excess shall be credited to the tenants in full commencing with the rental payment following the receipt by the landlord of such order of adjustment. If such report is filed on or before October thirty-first, nineteen hundred seventy, the increase shall take effect August first, nineteen hundred seventy. If the report is filed thereafter, such increase shall take effect with the first rental payment

following filing.

(f) The rent increases provided for in this paragraph two shall not be collected for the period between March thirty-first, nineteen hundred and seventy-one and December thirty-first, nineteen hundred seventy-one until the landlord shall have filed with the city rent agency a certified statement attesting that for every month for which he or she has received a rent increase pursuant to subparagraphs (a) and (b) of this paragraph two, he or she has expended or incurred in the operation, maintenance and improvements of the housing accommodations from which increases were collected an amount which equals the amount expended per month for such purpose averaged over the preceding five years, or such lesser period that he or she has been landlord of such properties, plus ninety per centum of all increased rents so collected.

(3) The city rent agency shall establish maximum rents to be effective January first, nineteen hundred seventy-two by dividing the maximum gross building rental from all housing accommodations in the property whether or not subject to or exempt from control under this chapter by the number of such accommodations, after giving consideration to such factors as may be prescribed by formula, such as size and location of housing accommodations and number of rooms. Such maximum gross building rental shall be computed on the basis of real estate taxes, water rates and sewer charges and an operation and maintenance expense allowance, a vacancy allowance not in excess of two per cent, and a collection loss allowance, both as prescribed by such agency, and an eight and one-half per centum return on capital value. The operating and maintenance expense allowance shall include provision for the cost of fuel, utilities, payroll, maintenance repairs, replacement reserves and miscellaneous charges attributed to the property, excluding mortgage interest and amortization, and may be varied by the agency for different types of properties depending upon such factors as the year of construction, elevator or non-elevator buildings, and the average number of rooms per individual housing accommodations in the building. Capital value shall be equalized assessed valuation based upon the appropriate tax class ratio which is established pursuant to article twelve of the real property tax law. Where the property receives income from sources other than such housing accommodations, the taxes, water and sewer charges and the capital value attributed to the portion consisting of housing accommodations shall be in the same ratio of the total taxes, water and sewer charges (where not computed separately) and the total capital value as the gross income from such portion consisting of housing accommodations bears to the total gross income from the property, as prescribed by the agency.

The agency shall report to the council on or before October fifteenth, nineteen hundred seventy-one as to the status of preparation of the formulas necessary to implement the rent adjustments to be effective January first, nineteen hundred seventy-two.

(4) The city rent agency shall establish maximum rents effective January first, nineteen hundred seventy-four and biennially thereafter by adjusting the existing maximum rent to reflect changes, if any, in the factors which determine maximum gross building rental under paragraph three of this subdivision except that commencing January first, nineteen hundred eighty-two, said maximum rent shall no longer recognize or reflect the adjustment allocable to changes in heating costs after April ninth, nineteen hundred seventy-nine.

Notwithstanding any other provisions in this paragraph to the contrary, commencing January first, nineteen hundred seventy-four, the city rent agency shall require each owner to make available for examination his or her books and all other financial records relating to the operation of each building under his or her ownership containing accommodations subject to this chapter at least once every three years for the purpose of determining whether the maximum formula rent is appropriate for each building in light of actual expenditures therefor and shall also alter such formula rent to take into account significant variations between the formula and actual cost experience. The agency shall also establish maximum costs for the factors under paragraph three of this subdivision which determine maximum gross building rental to preclude increases which would otherwise results from excessive expenditures in the operation and maintenance of the building. The return allowed on capital may be revised from time to time by local law.

(5) Where a maximum rent established pursuant to this chapter on or after January first, nineteen hundred

seventy-two, is higher than the previously existing maximum rent, the landlord may not collect more than seven and one-half percentum increase from a tenant in occupancy on such date in any one year period, provided however, that where the period for which the rent is established exceeds one year, regardless of how the collection thereof is averaged over such period, the rent the landlord shall be entitled to receive during the first twelve months shall not be increased by more than seven and one-half percentum over the previous rent and additional annual rents shall not exceed seven and one-half percentum of the rent paid during the previous year. Notwithstanding any of the foregoing limitations in this paragraph five, maximum rent shall be increased if ordered by the agency pursuant to subparagraphs (d), (e), (f), (g), (h), (i), (k), (l), (m) or (n) of paragraph one of subdivision g of this section. Commencing January first, nineteen hundred eighty, rent adjustments pursuant to subparagraph (n) of paragraph one of subdivision g of this section shall be excluded from the maximum rent when computing the seven and one-half percentum increase authorized by this paragraph five. Where a housing accommodation is vacant on January first, nineteen hundred seventy-two, or becomes vacant thereafter by voluntary surrender of possession by the tenants, the maximum rent established for such accommodations may be collected.

(6) Where a new maximum rent has been established pursuant to former subdivision m of this section or, following the repeal of such subdivision, pursuant to subparagraph (m) of paragraph one of subdivision g of this section, a new maximum rent shall not be established pursuant to paragraph three of this subdivision. Except with respect to a housing accommodation to which the preceding sentence applies, where the maximum rent on December thirty-first, nineteen hundred seventy-one is higher than the maximum rent established pursuant to paragraph three of this subdivision, such prior maximum rent shall continue in effect until the maximum rent under paragraph three, as adjusted from time to time pursuant to the provisions of this chapter, shall equal or exceed such prior maximum rent, at which time the maximum rent for such housing accommodations shall be as prescribed in this chapter.

(7) Section eight housing assistance.

(a) Notwithstanding any provision of this chapter, if during a rental period in which the landlord is eligible for an adjustment or establishment of rents pursuant to paragraph three or four of this subdivision, housing assistance payments are being made pursuant to section eight of the United States housing act of nineteen hundred thirty-seven, as amended, with respect to any housing accommodation covered by this chapter, the maximum rent collectible from the tenant in occupancy shall be the lesser of: (1) the maximum rent established pursuant to paragraph three of this subdivision as adjusted pursuant to this chapter, computed without regard to the limitations of paragraph five of this subdivision (provided that in any case the rent paid by the tenant pursuant to this chapter without regard to this paragraph is higher than such rent, the rent paid shall be substituted for such rent), or

(2) the contract or fair market rent approved for the housing accommodation pursuant to federal law or regulation.

(b) Prior to the collection of any increase in maximum rent pursuant to this paragraph, the landlord shall advise the city rent agency of his or her intent to compute the maximum rent pursuant to this paragraph.

(c) If a housing accommodation to which this subdivision applies ceases for any reason to be governed by this paragraph, the maximum rent collectible from the tenant shall be computed as if this paragraph had not applied and any adjustments thereto which would have been permitted pursuant to this chapter during the period such rent was set by this paragraph shall be proper rental adjustments.

(8) Notwithstanding the provisions of this chapter, upon the sale in any manner authorized by law of a multiple dwelling which was previously subject to the provisions of such chapter and which was acquired by the city in a tax foreclosure proceeding or pursuant to article nineteen-A of the real property actions and proceedings law, for a dwelling unit which was subject to this chapter pursuant to the local emergency housing rent control act at the time the city so acquired title, is occupied by a tenant who was in occupancy at the time of acquisition and remains in occupancy at the time of sale, the maximum rent shall be the last rent charged by the city, or on behalf of the city, for such dwelling unit,

which rent shall not exceed the rent computed pursuant to paragraph three of this subdivision, computed as of the time of such sale. This paragraph shall not apply to redemptions from city ownership pursuant to chapter four of title eleven of the code.

(9) The city rent agency, prior to establishing biennially maximum base rents pursuant to this chapter and before establishing a maximum base rent which is different from the previously existing maximum base rent for dwellings covered by this law, shall hold a public hearing or hearings for the purpose of collecting information the city rent agency may consider in establishing maximum base rents. Notice of the date, time, location and summary of subject matter for the public hearing or hearings shall be published in the City Record for a period of not less than fourteen days, and at least once in one or more newspapers of general circulation at least fourteen days immediately preceding each hearing date, at the expense of the city of New York, and the hearing shall be open for testimony from any individual, group, association or representative thereof who wants to testify.

b. Such agency, to effectuate the purposes of this chapter, and in accordance with the standards set forth in paragraph two of subdivision c of this section, may set aside and correct any maximum rent resulting from illegality, irregularity in vital matters or fraud, occurring prior to or after May first, nineteen hundred sixty-two.

c. (1) Whenever such agency determines that such action is necessary to effectuate the purposes of this chapter, it may also establish maximum rents for housing accommodations to which this chapter applies, where no maximum rent with respect thereto was in effect on April thirtieth, nineteen hundred sixty-two, or where no registration statement had been filed with respect thereto as required by the state rent act, or where for any other reason the provisions of subdivision a of this section are not susceptible to application to any such housing accommodations.

(2) Such rents shall be established, having regard for the maximum rents for comparable housing accommodations or any other factors bearing on the equities involved, consistent with the purposes of this chapter.

d. Where any housing accommodations, which are decontrolled (including those decontrolled by order) or exempted from control pursuant to the provisions of subparagraph (i) of paragraph two of subdivision e of section 26-403 of this chapter, are certified by any city agency having jurisdiction to be a fire hazard or in a continued dangerous condition or detrimental to life or health, the city rent agency shall establish maximum rents for such housing accommodations, having regard for the maximum rents for comparable housing accommodations or any other factors bearing on the equities involved, consistent with the purposes of this chapter.

e. Notwithstanding any other provision of this chapter, and subject to the provisions of subdivision f of this section, provision shall be made pursuant to regulations prescribed by the city rent agency for the establishment, adjustment and modification of maximum rents with respect to rooming house and single room occupancy accommodations, which shall include those housing accommodations subject to control pursuant to the provisions of subparagraph (c) of paragraph two of subdivision e of section 26-403 of this chapter (other than those accommodations subject to control under the last proviso of such subparagraph (c)), having regard for any factors bearing on the equities involved, consistent with the purposes of this chapter, to correct speculative, abnormal and unwarranted increases in rent.

f. On or before June thirtieth, nineteen hundred sixty-two, the city rent agency shall undertake a survey and investigation of all factors affecting rents, rental conditions and rental practices with respect to rooming houses and single room occupancy accommodations within the city for the purpose of determining whether the provisions of this chapter and the regulations thereunder relating to the establishment and adjustment of maximum rents for rooming house and single room occupancy accommodations are reasonably designed to prevent exaction of unreasonable and oppressive rents. Not later than January fifteenth, nineteen hundred sixty-three, such agency shall submit to the council a report setting forth the results of such survey and investigation, together with the findings and recommendations of such agency and any amendments to this chapter and the regulations thereunder which such agency may deem necessary or desirable for the accomplishment of the purposes of this chapter in relation to such accommodations.

During the period between May first, nineteen hundred sixty-two and the thirtieth day next succeeding the date of the submission of such report to the council (1) no application for an increase in any maximum rent for any rooming house or single room occupancy accommodations may be filed on any ground other than those specified in subparagraphs (f) and (g) of paragraph one of subdivision g of this section, and (2) no maximum rents for any rooming house or single room occupancy accommodations shall be increased on any grounds other than those specified in such subparagraphs (f) and (g); provided that where the maximum rents for any such accommodations were or are decreased prior to or during such period because of the landlord's reduction of living space, essential services, furniture, furnishings or equipment, and such reduction has been corrected, an application for restoration of the rent decrease may be filed and such rents may be adjusted so as to fix maximum rents which the city rent agency may determine to be proper, pursuant to the provisions of subdivision e of this section, but which shall not in any event exceed the maximum rents for such accommodations in effect immediately prior to such rent decrease.

g. (1) The city rent agency may from time to time adopt, promulgate, amend or rescind such rules, regulations and orders as it may deem necessary or proper to effectuate the purposes of this chapter, including practices relating to recovery of possession; provided that such regulations can be put into effect without general uncertainty, dislocation and hardship inconsistent with the purposes of this chapter; and provided further that such regulations shall be designed to maintain a system of rent controls at levels which, in the judgment of such agency, are generally fair and equitable and which will provide for an orderly transition from and termination of emergency controls without undue dislocations, inflationary price rises or disruption. Provision shall be made, pursuant to regulations prescribed by such agency, for individual adjustment of maximum rents where:

(a) The rental income from a property yields a net annual return of less than six per centum of the valuation of the property.

(1) Such valuation shall be the current assessed valuation established by the city, which is in effect at the time of the filing of the application for an adjustment under this subparagraph (a); provided that:

(i) The city rent agency may make a determination that the valuation of the property is an amount different from such assessed valuation where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application; and

(ii) Such agency may make a determination that the value of the property is an amount different from the assessed valuation where there has been a bona fide sale of the property within the period February first, nineteen hundred sixty-one, and the time of filing of the application, as the result of a transaction at arm's length, on normal financing terms, at a readily ascertainable price, and unaffected by special circumstances such as but not limited to a forced sale, exchange of property, package deal, wash sale or sale to a cooperative; provided, however, that where an application was filed under this subparagraph (a) on or before the effective date of this sub-item (ii), the city rent agency may determine the value of the property on the basis that there has been a bona fide sale of the property within the period between March fifteenth, nineteen hundred fifty-eight, and the time of the filing of the application. In determining whether a sale was on normal financing terms, such agency shall give due consideration to the following factors:

(a) the ratio of the cash payment received by the seller to (1) the sales price of the property and (2) the annual gross income from the property;

(b) the total amount of the outstanding mortgages which are liens against the property (including purchase money mortgages) as compared with the assessed valuation of the property;

(c) the ratio of the sales price to the annual gross income of the property, with consideration given to the total amount of rent adjustments previously granted, exclusive of rent adjustments because of changes in dwelling space, services, furniture, furnishings or equipment, major capital improvements, or substantial rehabilitation;

(d) the presence of deferred amortization in purchase money mortgages, or the assignment of such mortgage at a discount;

(e) Any other facts and circumstances surrounding such sale which, in the judgment of such agency, may have a bearing upon the question of financing; and

(iii) Where the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the city rent agency may determine a valuation of the property equal to five times the assessed valuation of the buildings, for the purposes of this subparagraph (a).

(2) An application for an increase in any maximum rent under this subparagraph (a) of this paragraph one may not be filed with respect to any property if, on the date when the application is sought to be filed:

(i) Less than two years have elapsed since the date of the filing of the last prior application for an increase under this subparagraph (a) of this paragraph one with respect to such property, which application resulted in the granting of an increase; or

(ii) Less than two years have elapsed since the last sale of the property, and the application is based upon a sale price in excess of the assessed valuation. This subitem shall not apply, however, where less than two years have elapsed since the last sale of the property and the application is based upon a sale within such two-year period at a price in excess of the assessed valuation, if such price is less than the price in the last sale which meets the criteria heretofore specified in this subparagraph (a) occurring prior to two years before the application is sought to be filed and since February first, nineteen hundred sixty-one.

(3) No increase in maximum rents shall be granted under this subparagraph (a) by the city rent agency while there is pending without final disposition any judicial proceeding to correct the final determination of the tax commission with respect to the assessed valuation of such property, (a) for the city fiscal year in which the landlord filed the application for such increase or (b) for the city fiscal year immediately preceding the filing of the application for such increase.

(4) For the purposes of this subparagraph (a): (i) Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; and

(ii) Test year shall be the most recent full calendar year or the landlord's most recent fiscal year or any twelve consecutive months ending not more than ninety days prior to the filing of the application for an increase;

(b) Where a building contains no more than nineteen rental units and the landlord has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowance for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent; or

(c) The landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset such unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or

(d) The landlord and tenant in occupancy voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent on the basis of specified increased services, furniture, furnishings, or equipment, provided the city rent agency determines that the specified increased services, furniture, furnishings or equipment have a market value commensurate with the increased rent, the increase maximum rent is not in excess of fifteen per centum and the lease is for a term of not less than two years, provided further that a report of lease is filed as prescribed by regulations issued by the city rent agency or has been otherwise accepted by such agency, and provided further, that where the entire structure, or any lesser portion thereof was vacated by order of a city department having jurisdiction, on or after November twenty-second, nineteen hundred sixty-three and any tenants therein were relocated by the department of relocation, or such structure was boarded up by the department of real estate, such lease increases in subsequently executed leases shall not become effective for any housing accommodations in the structure until such departments have been reimbursed for expenses necessarily incurred in connection with the foregoing; provided further, however, that the landlord may obtain such lease increases without making such reimbursement where the vacating was caused by fire or accident not resulting from any unlawful act or omission on the part of the landlord; or

(e) The landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations. An adjustment under this subparagraph shall be equal to one-fortieth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges, provided further than*36 an owner who is entitled to a rent increase pursuant to this subparagraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph.**37 ; or

(f) There has been since March first, nineteen hundred fifty-nine, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or

(g) There has been since July first, nineteen hundred seventy, a major capital improvement required for the operation, preservation or maintenance of the structure. An adjustment under this subparagraph (g) shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph (g) over a seven-year period; or

(h) There have been since March first, nineteen hundred fifty-nine, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least seventy-five per centum of the housing accommodations; provided, however, that whenever the city rent agency has determined that the improvements proposed were part of a plan designed for overall improvement of the structure or increases in services, it may authorize increases in maximum rents for all housing accommodations affected upon the express consent of the tenants in occupancy of at least fifty-one per centum of the housing accommodations, and provided further that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or

(i) There has been, since March first, nineteen hundred fifty-nine, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the city rent agency or pursuant to the state rent act or the federal act; or

(j) The presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar

housing accom- modations.

(k) The landlord has incurred, since January first, nineteen hundred seventy, in connection with and in addition to a concurrent major capital improvement pursuant to subparagraph (g) of this paragraph, other expenditures to improve, restore or preserve the quality of the structure. An adjustment under this subparagraph shall be granted only if such improvements represent an expenditure equal to at least ten per centum of the total operating and maintenance expenses for the preceding year. An adjustment under this subparagraph shall be in addition to any adjustment granted for the concurrent major capital improvement and shall be in an amount sufficient to amortize the cost of the improvements pursuant to this subparagraph over a seven-year period.

(l) (1) The actual labor expenses currently incurred or to be incurred (pursuant to a collective agreement or other obligation actually entered into by the landlord) exceed the provision for payroll expenses in the current applicable operating and maintenance expense allowance under subdivision a of this section. No application pursuant to this subparagraph may be granted within one year from the granting of an adjustment in maximum rent pursuant to this subparagraph (l), or pursuant to subparagraph (a) of this paragraph. Any rent increase the applicant would be entitled to, or such portion thereof, shall not exceed a total increase of seven and one-half per centum per annum of the maximum rent as provided in paragraph five of subdivision a of this section.

(2) Any adjustment in the maximum rents pursuant hereto shall be subject to:

(i) The adjustment in maximum rent for any twelve-month period for any housing accommodation shall not exceed four percent of the maximum rent in effect on December thirty-first, nineteen hundred seventy-three.

(ii) Where the increase in labor costs compensable herein is the result of an industry-wide collective bargaining agreement or a specific agreement in anticipation of, or subsequent to, an industry-wide collective bargaining agreement, the adjustment shall be in such amount (subject to the above limitation) that the increased rental income from January first, nineteen hundred seventy-four to December thirty-first, nineteen hundred seventy-six shall reflect the increased labor costs for the period from April thirtieth, nineteen hundred seventy-three to April thirtieth, nineteen hundred seventy-six.

(3) For the purpose of this subparagraph (l) the increase in labor costs shall be the amount by which the labor costs (a) actually in effect and paid, or (b) actually in effect and paid or payable and fixed and determined pursuant to agreement on the date of the filing of the application and projected over the period ending April thirtieth, nineteen hundred seventy-six, exceed the labor costs for the twelve calendar months immediately preceding the last day of the month in which the wage agreement became effective.

(4) Notwithstanding any other provision of this chapter, the adjustment pursuant to this subparagraph shall be collectible upon the landlord's filing of a report with the city rent agency, subject to the provisions of subparagraph (e) of paragraph two of subdivision a of this section.

(5) No increase in the maximum rent for any housing accommodation may be granted under this subparagraph (l) if on the date when the application is sought to be filed, less than the full term of such agreement has elapsed since the date of the filing of the last prior application for an increase with respect to such property under this subparagraph (l), which application resulted in the granting of an increase. Where, however, the landlord establishes the existence of unique or peculiar circumstances affecting an increase in labor costs for the property, the agency may accept such application where it determines that such acceptance is not inconsistent with the purposes of this local law.

(6) The increase authorized herein shall be apportioned equitably among all the housing accommodations in the property whether or not subject to control under this chapter.

(m) Where the rehabilitation or improvement of sub-standard or deteriorated housing accommodations has been financed under a governmental program providing assistance through loans, loan insurance or tax abatement or has been

undertaken under another rehabilitation program not so financed but approved by the commissioner.

(n) (1) The city rent agency shall hereafter promulgate in January of each year;

(i) findings regarding the price increase or decrease, respectively, for all types of heating fuel, including numbers two, four and six home heating oils, utility supplied steam, gas, electricity and coal, together with the sales and excise taxes thereon, on December thirty-first as compared to the January first in any year; and

(ii) standards for consumption of heating fuel, which shall be no more than two hundred twenty-five gallons per year per room commencing January first, nineteen hundred eighty-one, for buildings using heating oils for heat with comparable unit limitations to be established by the city rent agency for utility supplied steam, gas, electricity, coal and any other types of heating systems, provided that such consumption standards for heating fuels shall be reduced by five gallons per room per year for heating oils and a comparable amount for other heating fuels for the next succeeding year and ten gallons per room per year for heating oils and a comparable amount for other heating fuels for two succeeding years thereafter.

Such findings and consumption standards shall be published in the City Record.

(2) To obtain a rental adjustment pursuant to this subparagraph (n), the landlord shall file a report with the agency on forms prescribed by the agency and shall:

(i) certify the amount of heating fuel consumed in the calendar year immediately prior to the filing of the report;

(ii) state the type of fuel used and the number of rooms in the building;

(iii) certify that (a) all essential services required to be provided have been and will continue to be maintained and (b) there has been no rent reduction order issued pursuant to this chapter based on the landlord's failure to provide heat or hot water during the prior twelve months;

(iv) certify on information and belief, in order to qualify for an additional rent increase pursuant to this subparagraph (n), that for an individual housing accommodation, if the maximum rent collectible pursuant to paragraph five of subdivision a of this section plus actual rent adjustments pursuant to this subparagraph (n) and such additional rent increase, is equal to or exceeds the maximum rent established pursuant to paragraphs three and four of subdivision a of this section plus the amount calculated pursuant to subitem (i) of item three and subitem (i) of item four of this subparagraph (n), each to be allocated to such housing accommodation pursuant to subitem (ii) of item four of this subparagraph (n), that the landlord will not be earning an amount in excess of the statutory return specified in subparagraph (a) of paragraph one of subdivision g of this section after collection of a rent increase pursuant to this subparagraph (n), with respect to a building or buildings serviced by a single heating plant;

(v) report any funds received with respect to the housing accommodations from any governmental grant program compensating such landlord for fuel price increases during the period for which an adjustment is obtained pursuant to this subparagraph (n);

(vi) provide such other information as the agency may require.

(3) Rent adjustments for controlled housing accommodations for annual heating fuel cost increases or decreases experienced after December thirty-first, nineteen hundred seventy-nine, shall be determined as follows:

(i) the increase or decrease in heating fuel prices found by the agency for that year shall be multiplied by the actual consumption, not to exceed that year's consumption standard established pursuant to subitem (ii) of item one of this subparagraph; and

(ii) seventy-five percentum of such amount shall be allocated among all rental space in the building, including

commercial, professional and similar facilities, provided, for the purposes of this subparagraph (n), that living rooms, kitchens over fifty-nine square feet in area and bedrooms shall be considered rooms and that bathrooms, foyers and kitchenettes shall not be considered rooms.

(4) Rent adjustments for controlled housing accommodations for heating fuel cost increases or decreases experienced from April ninth, nineteen hundred seventy-nine, through and including December thirty-first, nineteen hundred seventy-nine, shall be determined as follows:

(i) the increase or decrease in heating fuel prices found by the agency for that period shall be multiplied by seventy-five percentum of the actual heating fuel consumption during the period from January first, nineteen hundred seventy-nine, through and including December thirty-first, nineteen hundred seventy-nine, which consumption shall not exceed seventy-five percentum of that year's consumption standard established by the agency; and

(ii) such amount shall be allocated among all rental space in the building, including commercial, professional and similar facilities, provided, for the purposes of this subparagraph (n), that living rooms, kitchens over fifty-nine square feet in area and bedrooms shall be considered rooms and that bathrooms, foyers and kitchenettes shall not be considered rooms.

The city rent agency shall promulgate findings for heating fuel price increases or decreases and standards for consumption for the periods set forth in this item four thirty days after this local law is enacted. The standard for consumption shall be no more than seventy-five percentum of two hundred thirty gallons per room for buildings using heating oils for heat with comparable unit limitations to be established by the city rent agency for utility supplied steam, gas, electricity, coal and any other types of heating systems.

(5) A landlord who files a report pursuant to this subparagraph and who falsely certifies shall not be eligible to collect any rent adjustment pursuant to this subparagraph for two years following a determination of a false certification and, in addition, any adjustments obtained pursuant to this subparagraph for up to two years prior to such determination shall not be collectible for that same two year period. Such landlord shall also be subject to any additional penalties imposed by law.

(6) A landlord annually may file a report pursuant to this subparagraph (n) after promulgation by the agency of the findings and consumption standards set forth in item one of subparagraph (n). A rent adjustment pursuant to such report shall be prospectively collectible upon the landlord's serving and filing the report, provided, however, that if a landlord files such report within sixty days of the promulgation of such findings and consumption standards, such rent adjustment shall be retroactive to and shall be effective as of the January first of the year in which the report is filed.

(7) A landlord demanding or collecting a rent adjustment pursuant to this subparagraph (n) shall at the time of either the demand or collection issue to the tenant either a rent bill or receipt separately setting forth the amount of the adjustment pursuant to this subparagraph (n) and the amount of the maximum rent otherwise demanded or collected. If the tenant has been issued a valid senior citizen rent exemption order or a valid disability rent exemption order, the owner shall also separately state the amount payable by the senior citizen or person with a disability after the exemption.

(8) In the event that a rent reduction order is issued by the city rent agency based upon the landlord's failure to provide heat or hot water to housing accommodations for which the landlord is collecting a rent adjustment pursuant to this subparagraph (n), the rent adjustment shall not be collected during the time such rent reduction order is in effect and for twelve months following the date of the restoration of the rent reduction. In addition, the landlord shall not be eligible to collect any subsequent rent adjustment pursuant to this subparagraph (n) until twelve months following the date of the restoration of the rent reduction.

(9) In the event that the city rent agency promulgates a finding of a price decrease, if any landlord who has obtained a rent adjustment pursuant to this subparagraph (n) does not file a report for a rent adjustment pursuant to this

subparagraph (n) within sixty days of the promulgation of such findings, then all rent adjustments obtained pursuant to this subparagraph (n) shall not be collectible for a period of twelve months.

(10) Any rent adjustment obtained pursuant to this subparagraph (n) shall not be included in the maximum rent established pursuant to paragraph four or five of subdivision (a) of this section.

(11) The city rent agency shall have the power to promulgate such regulations as it may consider necessary or convenient to implement and administer the provisions of this subparagraph (n). The regulations shall also require that any rent adjustment granted pursuant to this subparagraph (n) be reduced by an amount equal to any governmental grant received by the landlord compensating the landlord for any fuel price increases, but not required by the city, the agency or any granting government entity to be expended for fuel related repairs or improvements.

(o) (1) There has been an increase in heating and heating fuel expenditures in a property resulting from a city-wide rise in heating fuel costs such that the verifiable expenditures for heating or heating fuel in a property for nineteen hundred seventy-four exceeds the verifiable expenditures for such heating or heating fuel during nineteen hundred seventy-three.

(2) To obtain a rental adjustment pursuant to this subparagraph (o), the landlord must certify that he or she is presently maintaining all essential services required to be furnished with respect to the housing accommodations covered by such certification, and that he or she will continue to so maintain such essential services for the period of any such adjustment.

(3) To obtain a rental adjustment pursuant to this subparagraph (o), the landlord must certify on information and belief that he or she will not be earning an amount in excess of the statutory return specified in subparagraph (a) of paragraph one of subdivision g of this section after collection of such rental adjustment, with respect to the building or buildings serviced by a single heating plant; and where the building, or buildings serviced by a single heating plant, contains forty-nine or fewer housing accommodations, the landlord must certify that the amount expended directly for heating or heating fuel in nineteen hundred seventy-four equalled or exceeded ten per cent of the total rental income which was derived from the property during nineteen hundred seventy-four; and, where the building, or buildings serviced by a single heating plant, contains fifty or more housing accommodations the landlord must certify that the amount expended directly for heating or heating fuel in nineteen hundred seventy-four equalled or exceeded seven and one-half percentum of the total rental income which was derived from the property during nineteen hundred seventy-four.

(4) The total rental adjustments for a property to be allocated or deemed allocated pursuant to this subparagraph (o) shall not exceed onehalf of the gross amount by which the total verifiable expenditures for heating or heating fuel for nineteen hundred seventy-four exceeds the total verifiable expenditures for such heating or heating fuel for nineteen hundred seventy-three.

(5) Such total rental adjustments shall be allocated or deemed allocated pursuant to this subparagraph (o) to all housing accommodations subject to this chapter, to all other housing accommodations, and to all commercial, professional and similar facilities in or associated with the property in a manner to be determined by the agency. In no event shall any adjustment in maximum rent pursuant to this subparagraph (o) for any housing accommodations subject to this chapter exceed a monthly increase of two dollars per room, as defined by item eight below. In any apartment containing five or more rooms, any increase shall not exceed the total of nine dollars.

(6) Any adjustment pursuant to this subparagraph (o) shall be effective for all or part of the period July first, nineteen hundred seventy-five through June thirtieth, nineteen hundred seventy-six. Any adjustment pursuant to this subparagraph shall automatically expire no later than June thirtieth, nineteen hundred seventy-six.

(7) The rental increases provided for herein shall be effective and collectible upon the landlord's filing a report with the agency on forms prescribed by the agency and upon giving such notice to the tenants as the agency shall

prescribe, subject to adjustments upon order of the agency.

(8) In determining the amount of an adjustment allocation of an adjustment pursuant to this subparagraph (o), only living rooms, kitchens over fifty-nine square feet in area, dining rooms and bedrooms shall be considered rooms; bathrooms, foyers, and kitchenettes shall not be considered rooms.

(2) In any case where any housing accommodation was vacated on or after the effective date of this paragraph two, other than by voluntary surrender of possession or in the manner provided in this chapter, the city rent agency may, by regulations having due regard for the equities involved, bar adjustments pursuant to subparagraphs (f) and (g) of paragraph one of this subdivision g, except for work which:

(a) is necessary in order to remove violations against the property;

(b) is necessary to obtain a certificate of occupancy if such certificate is required by law; or

(c) could have been performed with a tenant in physical possession of the housing accommodation.

(3) Any adjustment pursuant to subparagraph (a), (b), or (c) of paragraph one of this subdivision shall be subject to the limitation set forth in paragraph five of subdivision a of this section; provided:

(a) that in ordering an adjustment pursuant to such subparagraph (a), the city rent agency may waive such limitation where a greater increase is necessary to make the earned income of the property equal to its operating expenses; and

(b) that where due to such limitation the landlord will not receive the full amount of the rent increase to which he or she would otherwise be entitled, the order of the city rent agency shall increase the maximum rent by a further additional amount during each succeeding twelvemonth period, not to exceed seven and a half percentum of the maximum rent in effect on the date of the filing of the application for an adjustment, under the maximum rent shall reflect the full increase to which the landlord is entitled.

(4) Any increase in maximum rent shall be apportioned equitably among all the controlled housing accommodations in the property. In making such apportionment and in fixing the increases in maximum rents, the city rent agency shall give due consideration (a) to all previous adjustments or increases in maximum rents by lease or otherwise; and (b) to all other income derived from the property, including income from space and accommodations not controlled, or the rental value thereof if vacant or occupied rent-free, so there is allocated to the controlled housing accommodations therein only that portion of the amount of increases necessary pursuant to subparagraph (a), (b), (c) or (k) of paragraph one of this subdivision g, as is properly attributable to such controlled accommodations.

(5) The city rent agency shall compile and make available for public inspection at reasonable hours at its principal office and at each appropriate local office, the manual of accounting procedures and advisory bulletins applicable to applications under subparagraphs (a), (b) and (c) of paragraph one of this subdivision g, and all amendments to such manual and bulletins.

(6) (a) No application for an increase in any maximum rent may be filed under subparagraph (a), (b) or (c) of paragraph one of this subdivision g with respect to any property unless there is annexed to such application:

(1) A report of search issued by the agency of the city having jurisdiction stating either that no violations against such property are recorded or a receipt (or photocopy thereof) issued by that agency attesting to the payment of the fee for the report of search or that all violations recorded against such property have been cleared, corrected or abated; and

(2) A certification by the landlord of such property that he or she is maintaining all essential services required to be furnished and that he or she will continue to maintain such services so long as any such increase in the maximum

rent continues in effect.

(b) Except as provided in subparagraph (c) of this paragraph six and paragraph four of subdivision h of this section, no landlord shall be entitled to an increase in the maximum rent on any ground unless he or she certifies that he or she is maintaining all essential services furnished or required to be furnished as of the date of the issuance of the order adjusting the maximum rent and that he or she will continue to maintain such services so long as the increase in such maximum rent continues in effect; nor shall any landlord be entitled to any increase in the maximum rent on any ground where an agency of the city having jurisdiction certifies that the housing accommodation is a fire hazard or is a continued dangerous condition or detrimental to life or health or is occupied in violation of law; nor shall any landlord be entitled to any increase where the landlord has not removed the violations recorded against such property as shown in the report of search required under subparagraph (a) of this paragraph six.

(c) Where an application for an increase in any maximum rent is filed under subparagraph (f) and/or (g) of paragraph one of this subdivision g, and the landlord is not entitled to any increase by reason of the provisions of subparagraph (b) of this paragraph six, the city rent agency may waive such provisions and issue orders increasing the maximum rent effective as of the date of the issuance of the orders provided, however, that the landlord agrees in writing to deposit the entire amount of such increase in maximum rent into an escrow account administered by the city rent agency in accordance with rules and regulations to be promulgated by such agency for the purpose of obtaining compliance with such provisions and further agrees to obtain and submit to the city rent agency within one year from the date of issuance of such orders; a report of search issued by the agency of the city having jurisdiction stating that the violations shown in the report of search required under subparagraph (a) of this paragraph six have been removed, cleared, corrected or abated, and his or her own certification that he or she is and will continue to maintain all essential services in accordance with the provisions of subparagraph (b) of this paragraph six. In the event the landlord fails to fully comply with such provisions within one year from the date of the issuance of the order increasing the maximum rent, the city agency may, having due regard for the equities involved, revoke such orders and direct full refund to the tenants of the entire increase paid by the tenants as a result of such orders. Any person serving as escrow agent shall not be liable except for fraud or misfeasance.

(d) No new maximum rent shall be established pursuant to paragraph three or four of subdivision a of this section unless not more than one hundred fifty days nor less than ninety days prior to the effective date thereof, the landlord has certified that he or she is maintaining all essential services required to be furnished with respect to the housing accommodations covered by such certification, and that he or she will continue to maintain such services so long as such new maximum rent is in effect. Each such certification filed to obtain a new maximum rent pursuant to paragraph four of subdivision a of this section shall be accompanied by a certification by the landlord that he or she has actually expended or incurred ninety per centum of the total amount of the cost index for operation and maintenance established for his or her type of building.

(e) The city rent agency shall establish a counseling service to provide assistance to tenants and to landlords of buildings containing nineteen or fewer housing accommodations, by way of instruction in the management, maintenance and upkeep of housing accommodations, their respective responsibilities thereto, the programs and enforcement remedies available in the agency and from other city agencies, and assistance in the preparation of applications and other forms.

(7) Before ordering any adjustment in maximum rents, the city rent agency shall accord a reasonable opportunity to be heard thereon to the tenant and the landlord.

h. (1) Whenever in the judgment of the city rent agency such action is necessary or proper in order to effectuate the purposes of this chapter, such agency may, by regulation or order, regulate or prohibit speculative or manipulative practices or renting or leasing practices, including practices relating to recovery of possession, which in the judgment of such agency are equivalent to or are likely to result in rent increases inconsistent with the purposes of this chapter.

(2) Whenever in the judgment of such agency such action is necessary or proper in order to effectuate the purposes of this chapter, such agency may provide regulations to assure the maintenance of the same living space, essential services, furniture, furnishings and equipment as were provided on the date determining the maximum rent, and such agency shall have power by regulation or order to decrease the maximum rent or take action as provided in paragraph four of this subdivision h for any housing accommodation with respect to which a maximum rent is in effect, pursuant to this chapter, if it shall find that the living space, essential services, furniture, furnishings or equipment to which the tenant was entitled on such date have been decreased. The amount of the reduction in maximum rent ordered by such agency under this paragraph shall be reduced by any credit, abatement or offset in rent which the tenant has received pursuant to section two hundred thirty-five-b of the real property law that relates to one or more conditions covered by such order.

(3) Whenever any agency of the city having jurisdiction certifies that any housing accommodation is a fire hazard or is in a continued dangerous condition or detrimental to life or health, or is occupied in violation of law, the city rent agency may issue an order decreasing the maximum rent or take action as provided in paragraph four of this subdivision h for such housing accommodation in such amount as it deems necessary or proper, until the agency issuing such certification has certified that such housing accommodation is no longer a fire or other hazard and is not in a condition detrimental to life and health and is not occupied in violation of law.

(4) (a) Whenever in the judgment of the city rent agency such action is necessary or proper in order to effectuate the purposes of this chapter, such agency may, in lieu of decreasing the maximum rents as provided in paragraphs two and three of this subdivision h, enter into a contract wherein the landlord agrees in writing to deposit all income derived from the property, including income from spaces and accommodations not controlled, into an escrow or trust account for use in maintaining or restoring essential services and equipment, for removing violations against the property or housing accommodations therein, making such repairs as are necessary to remove a certification from any city agency having jurisdiction thereof that the housing accommodation is a fire hazard or is in a continued dangerous condition or detrimental to life or health, or is occupied in violation of law, and/or for such other uses as the city rent agency deems necessary or proper for the preservation, repair or maintenance of the property. The city rent agency may adopt such rules and regulations and orders as it may deem necessary or proper to effectuate the purposes of this paragraph, including but not limited to the issuance of orders adjusting all controlled rents to the appropriate maximum rent effective as of the first day of the month following the execution of the contract provided, however, that in the event the city rent agency shall determine that the landlord has breached such contract, such agency may issue orders (1) decreasing the maximum rents pursuant to such contract; (2) containing a directive that rent collected by the landlord in excess of the rent thus decreased be refunded to the tenants; and (3) containing such other determinations and directives as are necessary in order to effectuate the purposes of this paragraph four.

(b) Notwithstanding any provision of this chapter to the contrary, whenever in the judgment of the city rent agency action as provided in paragraph two or three of this subdivision h is necessary or proper in order to effectuate the purposes of this chapter, such agency may in lieu of decreasing the maximum rents thereof issue orders adjusting all controlled rents and directing that rents be paid into an escrow account for the uses stated in subparagraph (a) of this paragraph four where:

(1) The landlord fails to take corrective action after notice by the city rent agency of proposed action to decrease the maximum rents pursuant to paragraph two or three of this subdivision h, and,

(2) The city rent agency has notified all mortgagees who have filed with the city rent agency a declaration of interest in such property and in such proposed action, and,

(3) The landlord has failed for three consecutive months to collect any controlled rents or to commence court proceedings for their collection or if such proceedings have been commenced, the landlord has not diligently prosecuted them or such proceedings have not resulted in judgment in favor of such landlord.

(c) The city rent agency shall promulgate rules and regulations for the administration of escrow and trust accounts set forth in this paragraph four. Any person serving as escrow agent or trustee shall not be liable except for fraud, breach of fiduciary duties or misfeasance.

(5) Whenever the essential services, furnishings, furniture or equipment of any individual housing accommodation are reduced, impaired, mutilated, or made unworkable as the result of the neglect, failure to exercise due care, or failure of the tenant to take practicable precautions to prevent such condition, the landlord shall restore such services, furniture, furnishings or equipment and pursuant to regulations to be prescribed by the city rent agency may make application for a temporary increase in the maximum rent based upon the cost of such restoration. In the event of the failure of the tenant to make restitution within a reasonable time, as determined by the city rent agency an order shall be issued adjusting the maximum rent for such tenant in an amount sufficient to recover the cost over twelve monthly installments, or until the tenant surrenders possession, whichever is sooner. The provisions of this paragraph shall be in addition to all other rights and remedies of the landlord.

(6) If at least six months before the effective date of any adjustment or establishment of rents pursuant to paragraph three or four of subdivision a of this section, the landlord has not certified to the agency having jurisdiction that (a) all rent impairing violations (as defined by section three hundred two-a of the multiple dwelling law), and (b) at least eighty per centum of all other violations of the housing maintenance code or other state or local laws that impose requirements on property that were recorded against the property one year prior to such effective date have been cleared, corrected, or abated, no increase pursuant to such paragraphs shall take effect until he or she shall have entered into a written agreement with the city rent agency to deposit all income derived from the property into an escrow or trust account pursuant to subparagraph (a) of paragraph four of this subdivision, in addition to the procedures set forth in this paragraph and all other applicable penalties and procedures under this chapter, such violation shall also be subject to repair or removal by the city pursuant to the provisions of article five of subchapter five of the housing maintenance code, the landlord to be liable for the cost thereof.

i. Any regulation or order issued pursuant to this section may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments including the establishment of new or adjusted maximum rents in whole dollar amounts, and such reasonable exceptions as in the judgment of the city rent agency are necessary or proper in order to effectuate the purposes of this chapter.

j. No increase or decrease in maximum rent shall be effective prior to the date on which the order therefor is issued, except as hereinafter provided. If an application for an increase pursuant to subparagraph (a) of paragraph one of subdivision g of this section submitted on or after August first, nineteen hundred seventy is accompanied by a certified statement of expenditures and no order is issued thereon within four months of the filing of an application based on assessed value or equalized assessed value, or eight months of the filing of an application based on sale price, with all required documentation the increased rent requested shall thereafter be placed in an interest bearing escrow account until a final determination is made upon such application by the city rent agency. Upon initial determination by the agency an order shall be issued providing for the payment of the increased amount, if any, due to the landlord from the date of first deposit of rent in said escrow account with interest, and the excess amount, if any, be paid the tenants entitled thereto, with an appropriate amount of interest. The city rent agency shall promulgate rules and regulations for the administration of such escrow accounts. Any person serving as escrow agent shall not be liable except for fraud or misfeasance.

k. Regulations, orders, and requirements under this chapter may contain such provisions as the city rent agency deems necessary to prevent the circumvention or evasion thereof.

l. The powers granted in this action shall not be used or made to operate to compel changes in established rental practices, except where such action is affirmatively found by the city rent agency to be necessary to prevent circumvention or evasion of any regulation, order, or requirement under this chapter.

m. Findings. The council finds that there is an acute and continuing housing shortage; that this shortage has and continues to have an adverse effect on the population and especially on inhabitants of the city who are sixty-two years of age or older and of limited means, as well as persons with disabilities, who cannot pay enough rent to induce private enterprise to maintain decent housing at rents they can afford to pay; that this condition is and continues to be particularly acute in a time of rising costs such as the present; that present rising costs and the continuing increase in rents pursuant to amendments to the New York city rent and rehabilitation law may result in such persons being unable to pay their rent, thus making them subject to eviction; that such hardships fall with particular severity upon older persons in the population, as well as persons with disabilities, because of their particular inability to find alternative accommodations within their means, because of the trauma experienced by many older persons, as well as persons with disabilities, who have to relocate and because they may endanger their health by paying additional sums for shelter and thereby deprive themselves of other necessities; that hardships imposed upon such people adversely affect their health and welfare and the general welfare of the inhabitants of the city. The council is aware of the provisions set forth in chapter three hundred seventy-two and chapter one thousand twelve of the laws of nineteen hundred seventy-one. It is our considered opinion that this legislation extending the rent exemption to cover the resultant rent increases due to the maximum rents established January first, nineteen hundred seventy-two, is not more stringent or restrictive than those presently in effect. It is found and declared to be necessary for the health, welfare and safety of persons who are sixty-two years of age or older, persons with disabilities and inhabitants of the city that the city continue a system of special rent adjustments for such older persons, as well as extend such special rent adjustments to persons with disabilities as hereinafter provided.

(1) No increase in maximum rent pursuant to paragraph two or paragraph three, four or five of subdivision a of this section, or subparagraph (a), (b), (c), (l) or (n) of paragraph one of subdivision g of this section, shall be collectible from a tenant to whom there has been issued a currently valid rent exemption order pursuant to this subdivision, except as provided in such order.

(2) A tenant is eligible for a rent exemption order pursuant to this subdivision if:

(i) the head of the household residing in the housing accommodation is sixty-two years of age or older or is a person with a disability, and is entitled to the possession or to the use or occupancy of a dwelling unit. To qualify as a person with a disability for the purposes of this section, an individual shall submit to such agency as the mayor shall designate proof (as specified by regulation of such agency as the mayor shall designate) showing that such individual is currently receiving social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act or disability pension or disability compensation benefits provided by the United States department of veterans affairs, or was previously eligible by virtue of receiving disability benefits under the supplemental security income program or the social security disability program and is currently receiving medical assistance benefits based on determination of disability as provided in section three hundred sixty-six of the social services law.

(ii) The aggregate disposable income (as defined by regulation of the department for the aging) of all members of the household residing in the housing accommodation whose head of household is sixty-two years of age or older does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year, after deduction of federal, state and city income and social security taxes. For purposes of this subparagraph, "aggregate disposable income" shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the date of eligibility of a head of the household receiving benefits under this subdivision whether received by the head of the household or any other member of the household;

(iii) the aggregate disposable income (as defined by regulation of such agency as the mayor shall designate) for the current income tax year of all members of the household residing in the housing accommodation whose head of the household is a person with a disability pursuant to this section does not exceed the maximum income above which such head of the household would not be eligible to receive cash supplemental security income benefits under federal law during such tax year. For purposes of this subparagraph, "aggregate disposable income" shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the date of eligibility of a head of the household receiving benefits under this subdivision whether received by the head of the household or any other member of the household.

(iv) (a) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, the maximum rent for the housing accommodations exceeds one-third of the aggregate disposable income or if any expected increase in the maximum rent pursuant to paragraph two, three, four or five of subdivision a of this section, or subparagraph (a), (b), (c), (l) or (n) of paragraph one of subdivision g of this section would cause such maximum rent to exceed one-third of the aggregate disposable income; or

(b) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, the maximum rent for the housing accommodations exceeds the maximum allowance for shelter which the head of the household is entitled to receive pursuant to the social services law or if any expected increase in the maximum rent pursuant to paragraph two, three, four or five of subdivision a of this section, or subparagraph (a), (b), (c), (l) or (n) of paragraph one of subdivision g of this section would cause such maximum rent to exceed the maximum allowance for shelter which the head of the household is entitled to receive.

(3) (a) A rent exemption order pursuant to this subdivision shall provide:

(i) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, that the landlord may not collect from the tenant to whom it is issued rent at a rate in excess of one-third of the aggregate disposable income, or the maximum collectible rent in effect on December thirty-first of the year preceding the effective date of the order, whichever is greater; or

(ii) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, that the landlord may not collect from the tenant to whom it is issued rent at a rate in excess of either the maximum allowance for shelter which the head of the household is entitled to receive, or the maximum collectible rent in effect on December thirty-first of the year preceding the effective date of the order, whichever is greater; except,

(iii) that the landlord may collect from the tenants described in items (i) and (ii) of this subparagraph increases in rent pursuant to subparagraphs (d), (e), and (i) of paragraph one of subdivision g of this section.

(b) Each such order shall expire upon termination of occupancy of the housing accommodation by the tenant to whom it is issued. The landlord shall notify the department for the aging, in the case of a household whose eligibility for such order is based on the fact that the head of such household is sixty-two years of age or older, or such agency as the mayor shall designate, in the case of a household whose eligibility for such order is based on the fact that the head of such household is a person with a disability, on a form to be prescribed by such department, within thirty days of each such termination of occupancy.

(c) When a rent reduction order is issued by the city rent agency, the amount of the reduction shall be subtracted from the rent payable by the tenant specified in a currently valid rent exemption order issued pursuant to this subdivision. The landlord may not collect from the tenant a sum of rent exceeding the adjusted amount while the rent reduction order is in effect.

(4) Any landlord who collects, or seeks to collect or enforce, rent from a tenant in violation of the terms of a rent

exemption order shall, for the purposes of all remedies, sanctions and penalties provided in this chapter, be deemed to have collected or attempted to collect or enforce, a rent in excess of the legal maximum rent.

(5) A rent exemption order shall be issued to each tenant who applies to the New York City department for the aging or such other agency as the mayor shall designate in accordance with such department or agency's regulations and who is found to be eligible under this subdivision. Such order shall take effect on the first day of the first month after receipt of such application, except that where the aggregate disposable income of all members of the household residing in the housing accommodation whose head of the household is sixty-two years of age or older is greater than five thousand dollars per year but does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year pursuant to subparagraph (ii) of paragraph two of subdivision m of this section on orders issued on applications received before July first, nineteen hundred seventy-five, the effective date of such order shall be the later of (1) June thirtieth, nineteen hundred seventy-four or (2) the last day of the month in which a person becomes an eligible head of household in the housing accommodation in which such person resides at the time of filing the most recent application for a rent exemption order; and further, except that where any other application has been received within ninety days of the issuance of the order increasing the tenant's maximum rent pursuant to paragraph three, four or six of subdivision (a) of this section, or subparagraph (a), (b), (c), or (l) of paragraph (1) of subdivision (g) of this section or pursuant to court order, whichever is later, the rent exemption order shall without further order take effect as of the effective date of said order increasing the tenant's rent including any retroactive increments collectible pursuant to such orders.

(6) A rent exemption order shall be valid for a period of two years and may be renewed for further two year periods upon application by the tenant; provided, that upon any such renewal application being made by the tenant, any rent exemption order then in effect with respect to such tenant shall be deemed renewed until such time as the department for the aging or such other agency as the mayor shall designate shall have found such tenant to be either eligible or ineligible for a rent exemption order but in no event for more than six additional months. If such tenant is found eligible, the order shall be deemed to have taken effect upon expiration of the exemption. In the event that any such tenant shall, subsequent to any such automatic renewal, not be granted a rent exemption order, such tenant shall be liable to his or her landlord for the difference between the amounts he or she has paid under the provisions of the automatically renewed order and the amounts which he or she would have been required to pay in the absence of such order. Any rent exemption order issued pursuant to this subdivision shall include provisions giving notice as to the contents of this paragraph relating to automatic renewals of rent exemption orders. Any application or renewal application for a rent exemption order shall also constitute an application for a tax abatement under such section. The department for the aging and such other agency as the mayor shall designate may, with respect to renewal applications by tenants who have been found eligible for rent exemption orders, prescribe a simplified form including a certification of the applicant's continued eligibility in lieu of a detailed statement of income and other qualifications.

(7) Notwithstanding the provisions of this chapter, a tenant who resides in a housing accommodation which becomes subject to this chapter upon the sale by the city of New York of the building in which such housing accommodation is situated may be issued a rent increase exemption order for increases in rent which occurred during ownership of such building by the city of New York provided that such tenant would have been otherwise eligible to receive a rent increase exemption order at the time of such increase but for the fact that such tenant occupied a housing accommodation owned by the city of New York and was therefore not subject to this chapter. Application for such rent increase examption orders shall be made within one year from the date such building is sold by the city of New York or within one year of the effective date of this provision, whichever is later.

(8) Notwithstanding the provisions of this chapter or chapter four of this title, when a dwelling unit is subject to regulation under this chapter or chapter four of this title is reclassified by a city rent agency order subject to the other chapter, the tenant, who holds a senior citizen rent increase exemption order or disability rent increase exemption order at the time of the reclassification or is otherwise eligible and entitled to an exemption order from one or more rent

increases but for the reclassification of the dwelling unit, may be issued a rent increase exemption order under the chapter to which the unit is thereafter subject by virtue of the reclassification continuing the previous exemption notwithstanding the reclassification of the dwelling unit or, where no previous rent increase exemption order has been granted, issuing an initial order exempting the tenant from paying the rent increase to the extent for which he or she would have been eligible and entitled to be exempted at the time of the increase and reclassification but for the fact of reclassification of the dwelling unit including exemption from the rent increase granted pursuant to subparagraph (m) of paragraph one of subdivision g of this section to the extent that it is not predicated upon any improvement or addition in a category as provided for in subparagraph (d), (e), (f), (g), (h) or (i) of paragraph one of subdivision g of this section. Application for such rent increase exemption order shall be made within ninety days from the date of reclassification or within ninety days of the effective date of this paragraph, whichever is later. The rent increase exemption order shall take effect as of the effective date of reclassification including any retroactive increments pursuant to such rent increase.

(9) Notwithstanding any other provision of law to the contrary, where a head of household holds a current, valid rent exemption order and, after the effective date of this paragraph, there is a permanent decrease in aggregate disposable income in an amount which exceeds twenty percent of such aggregate disposable income as represented in such head of the household's last approved application for a rent exemption order or for renewal thereof, such head of the household may apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to re-establish the ratio of adjusted rent to aggregate disposable income which existed at the time of the approval of such eligible head of the household's last application for a rent exemption order or for renewal thereof; provided, however, that in no event shall the amount of the adjusted rent be redetermined to be (i) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, less than one-third of the aggregate disposable income; or (ii) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, less than the maximum allowance for shelter which such head of the household is entitled to receive pursuant to such law. For purposes of this paragraph, a decrease in aggregate disposable income shall not include any decrease in such income resulting from the manner in which such income is calculated pursuant to any amendment to paragraph c of subdivision one of section four hundred sixty-seven-b of the real property tax law, any amendment to the regulations of the department for the aging made on or after April first, nineteen hundred eighty-seven or any amendment to the regulations of such other agency as the mayor shall designate made on or after the effective date of the local law that amended this section. For purposes of this paragraph, "adjusted rent" shall mean maximum rent less the amount set forth in a rent exemption order.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. a par (3) opening par amended L.L. 73/1997 § 2, eff. Sept. 30, 1997. See Note 1.

Subd. g par (1) subpar (e) amended ch. 253/1993 § 18, eff. July 7, 1993. (Note amended incorrectly as subpar (e) of par 4 of subd. (g).

Subd. g par (1) subpar (g) amended chap 749/1990 § 1 eff. July 22, 1990 with expiration provisions.

Subd. g par (1) subpar (k) amended chap 749/1990 § 2 eff. July 22, 1990 with expiration provisions.

Subd. g par (1) subpar (n) clause (7) (mistakenly referred to as par (7) of subd. (g) amended L.L. 76/2005 § 2, eff. Oct. 10, 2005.

Subd. h par (2) amended chap 116/1997 § 43, eff. June 19, 1997 and applying to pending and subsequent actions or proceedings.

Subd. m heading, open par amended L.L. 76/2005 § 3, eff. Oct. 10, 2005.

Subd. m par (2) subpar (i) amended L.L. 76/2005 § 4, eff. Oct. 10, 2005.

Subd. m par (2) subpar (ii) amended L.L. 95/2005 § 1, eff. Nov. 15, 2005.

Subd. m par (2) subpar (ii) separately amended L.L. 75/2005 § 1, eff. Aug. 11, 2005 and L.L. 76/2005 § 4, eff. Oct. 10, 2005.

Subd. m par (2) subpar (ii) amended L.L. 67/2003 § 1, eff. Nov. 13, 2003 and retroactive to Sept. 1, 2003. [See Note 2]

Subd. m par (2) subpar (ii) amended L.L. 1/1996 § 1, eff. Jan. 12, 1996 and retroactive to Aug. 2, 1995.

Subd. m par (2) subpar (ii) amended L.L. 96/1992 § 1, eff. June 23, 1992.

Subd. m par (2) subpar (ii) amended L.L. 40/1992 § 2, eff. July 1, 1992.

Subd. m par (2) subpar (ii) separately amended chap 366/1988 § 2 L.L. 67/1988 § 2.

Subd. m par (2) subpar (iii) amended L.L. 94/2005 § 1, eff. Nov. 15, 2005.

Subd. m par (2) subpar (iii) added L.L. 76/2005 § 5, eff. Oct. 10, 2005.

Subd. m par (2) subpar (iii) amended L.L. 52/1986 § 2, see note.

Subd. m par (2) subpar (iv) renumbered (former subpar (iii)) L.L. 76/2005 § 5, eff. Oct. 10, 2005.

Subd. m par (3) subpar (a) clause (i) amended L.L. 40/1992 § 3, eff. July 1, 1992.

Subd. m par (3) subpar (a) item (iii) amended chap 737/1986 § 2.

Subd. m par (3) subpar (b) amended L.L. 76/2005 § 6, eff. Oct. 10, 2005.

Subd. m par (3) subpar (b) amended L.L. 40/1992 § 4, eff. July 1, 1992.

Subd. m par (3) subpar (c) added L.L. 21/2005 § 1, eff. Mar. 7, 2005 and applying to rent reduction orders issued by DHCR on and after that date.

Subd. m par (5) separately amended L.L. 75/2005 § 2, eff. Aug. 11, 2005 and L.L. 76/2005 § 7, eff. Oct. 10, 2005.

Subd. m par (5) amended L.L. 67/2003 § 2, eff. Nov. 13, 2003 and retroactive to Sept. 1, 2003. [See Note 2]

Subd. m par (5) amended L.L. 1/1996 § 2, eff. Jan. 12, 1996 and retroactive to Aug. 2, 1995.

Subd. m par (5) amended L.L. 96/1992 § 2, eff. June 23, 1992.

Subd. m par (5) amended L.L. 40/1992 § 5, eff. July 1, 1992.

Subd. m par (5) amended L.L. 67/1988 § 3, see note.

Subd. m par (5) amended L.L. 52/1986 § 3.

Subd. m par (6) amended L.L. 76/2005 § 7, eff. Oct. 10, 2005.

Subd. m par (6) amended L.L. 40/1992 § 6, eff. July 1, 1992.

Subd. m par (6) amended chap 651/1988 § 3.

Subd. m par (8) amended L.L. 76/2005 § 7, eff. Oct. 10, 2005.

Subd. m par (9) amended L.L. 76/2005 § 7, eff. Oct. 10, 2005.

Subd. m par (9) amended L.L. 56/2003 § 1, eff. Sept. 4, 2003 and applying to applications for redetermination filed on and after March 23, 2003. [See Note 2]

Subd. m par (9) amended L.L. 40/1992 § 7, eff. July 1, 1992.

Subd. m par (9) amended chap 651/1988 § 4.

Subd. m par (9) added chap 584/1987 § 7, see note after § 26-615.

DERIVATION

Formerly § Y51-5.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1533

(formerly § Y41-5.0)

Subs d, e, m amended chap 100/1963 § 1533

Sub g par 1 subpar d, amended LL 67/1963 § 3

Sub g pars 3-7 renumbered LL 6/1963 § 4

(formerly pars 2-6)

Sub g par 2 added LL 67/1963 § 4

Sub g par 1 subpar a item 1 sub-item ii amended LL 41/1967 § 1

Sub g par 1 subpar a item 2 amended LL 41/1967 § 2

Sub g par 1 subpar d amended LL 42/1967 § 1

Sub g par 1 subpar h amended LL 43/1967 § 1

Sub g pars 3, 4, 6 amended LL 44/1967 § 1

Sub g par 1 subpar a item 3 amended LL 45/1967 § 1

Sub h par 2 amended LL 46/1967 § 1

Sub h par 3 amended LL 46/1967 § 2

Sub h par 4 added LL 46/1967 § 3

Sub g par 1 subpar k added LL 47/1967 § 1

Sub g par 1 subpar l added LL 47/1967 § 2

Sub a amended LL 30/1970 § 1

Sub g par 1 subpar b amended LL 30/1970 § 2

Sub g par 1 subpars d, k repealed and added LL 30/1970 § 3

Sub m repealed LL 30/1970 § 4

Sub g par 1 subpar m added LL 30/1970 § 4

Sub g par 6 subpar a open par amended LL 30/1970 § 5

Sub g par 1 subpar l amended LL 30/1970 § 6

Sub h par 4 subpars a, c amended LL 30/1970 § 7

Sub j amended LL 30/1970 § 9

Sub a pars 3, 4, 5, 6 added LL 30/1970 § 11

Sub g par 1 subpar a amended LL 30/1970 § 12

Sub g par 1 subpar 1 amended LL 30/1970 § 13

Sub g par 3 repealed and added LL 30/1970 § 14

Sub g par 6 subpars d, e added LL 30/1970 § 15

Sub h par 6 added LL 30/1970 § 16

Sub g par 1 subpar g amended LL 30/1970 § 17

Sub h par 5 added LL 30/1970 § 18

Sub i amended LL 30/1970 § 19

Sub n added LL 31/1970 § 1

Sub n amended LL 7/1972 § 1

(see special effective date)

(LL 7/1972 § 2 amended LL 51/1972 § 3)

Sub n pars 2, 3, 5 amended LL 51/1972 § 1

Sub n par 6 added LL 51/1972 § 2

(special provision, duration of rent exemption order

LL 51/1972 § 5)

Sub n par 5 amended LL 78/1972 § 2

Sub a pars 4, 5 repealed and added LL 24/1973 § 2

(legislative findings, continued emergency LL 24/1973 § 1)

Sub g par 1 subpar a repealed and added LL 24/1973 § 3

Sub g par 1 subpar l repealed and added LL 24/1973 § 4

Sub g par 3 repealed and added LL 24/1973 § 5

Sub g par 1 subpar 1 repealed and added LL 17/1974 § 2

Sub g par 3 repealed and added LL 17/1974 § 3

Sub n par 2 subpars i, ii amended LL 51/1974 § 1

Sub n par 5 amended LL 51/1974 § 2

(expiration, separability LL 51/1974 §§ 6, 7)

(LL 51/1974 § 7 amended LL 39/1976 § 1 LL 46/1977 § 1)

Sub a par 5 amended LL 27/1975 § 2

(legislative findings, emergency continues, heat costs LL 27/1975 § 1)

Sub g par 1 subpar n added LL 27/1975 § 3

Sub n par 1 amended LL 27/1975 § 4

(Note LL 27/1975 expires per § 5)

Sub g par 1 subpar 1 amended LL 76/1977 § 2

Sub a par 5 repealed and added LL 76/1977 § 3

Sub n par 6 amended chap 133/1978 § 1

Sub a par 7 added LL 38/1978 § 2

(legislative findings, protect from excessive rents, LL 38/1978 § 1)

Sub a par 7 added LL 14/1979 § 2

Sub a par 8 added LL 31/1979 § 1

Sub a par 4 amended LL 20/1980 § 2

(legislative findings, fuel cost adjustments, maximum base rent (MBE) system, LL 20/1980 § 1)

Sub a par 5 amended LL 20/1980 § 3

Sub g par 1 subpar n added LL 20/1980 § 4

Sub n par 1 amended LL 20/1980 § 5

Sub n par 2 item ii amended LL 61/1980 § 2

Sub n par 5 amended LL 61/1980 § 3

Sub n par 7 added chap 878/1982 § 1

Sub n par 2 subpar ii amended LL 68/1982 § 2

Sub n par 5 amended LL 68/1982 § 3

Sub n pars 5, 6 amended chap 403/1983 § 24

Sub n par 8 added chap 925/1984 § 2

(special provision, rent increase exemption order, reclassification, retroactive, chap 925/1984 § 3)

Sub n par 2 item ii amended LL 63/1985 § 2

(special provision LL 63/1985 § 6)

Sub n par 5 amended LL 63/1985 § 3

Sub n par 2 subpars i, iii amended LL 98/1985 § 1

Sub n par 3 amended LL 98/1985 § 2

Sub n par 3 subpar a item iii amended chap 737/1986 § 1

NOTE

Effective date of L.L. 52/1986 with special provisions

Section 5. This local law shall take effect immediately and shall be retroactive to and shall be deemed to have been in full force and effect on and after August second, nineteen hundred eighty-six. Notwithstanding any inconsistent provision of the administrative code, any person who on August second, nineteen hundred eighty-six would have been eligible for a rent increase exemption order pursuant to such code but for the fact that his or her income exceed the ten thousand five hundred dollar income limitation in effect before the enactment of this local law, and who as a result of the enactment of this local law increasing the maximum income limitation to twelve thousand twenty-five dollars is eligible effective August second, nineteen hundred eighty-six, for such order, may file an application for such order within ninety days of the enactment of this local law, and any such order issued to such applicant shall be effective as of August second, nineteen hundred eighty-six.

NOTE 1. Provisions of L.L. 73/1997: Section 1. Legislative findings. In 1970, the city council enacted local law 30 which made fundamental reforms in computing rent increases for residential dwellings subject to

the New York city rent and rehabilitation law (rent control). Included among these reforms was the establishment of the maximum base rent formula, which is used today to compute the maximum rent that may be charged for a rent controlled apartment for the ensuing two-year period. The maximum base rent formula is based upon several cost components plus an eight and one-half percent return on capital value, where "capital value" is defined as equalized assessed valuation using the special state equalization ratio established pursuant to article 12-A of the New York state real property tax law (RPTL). At the time of local law 30's enactment, the only other official equalization measurement in existence was the article 12 (RPTL) state equalization rate, which, like the article 12-A special state equalization ratio, provided an equalization ratio of assessments to market values for all taxable real property situated in New York city. Although the article 12 state equalization rate and the article 12-1 special state equalization ratio were numerically similar at that time, the council selected the article 12-A special state equalization ratio for computing capital value. It is the council's understanding that, at the time, the article 12-A special state equalization ratio closely and more accurately reflected the current market value of all taxable real property in New York city so as to provide the best possible measurement for computing "capital value". However, since the enactment of local law 30 the city has altered the way in which it assesses property. Beginning in 1981 with the state legislature's enactment of chapter 1057, all properties in the city of New York were classified into one of four classes, with class one consisting of residential dwellings of three units or less, class two consisting of multiple dwellings of four units or more, class three consisting of utility property and class four consisting of all other property not designated as class one, two or three, predominantly commercial. Under this class structure system, class two residential property is assessed at a substantially higher percentage of the fair market value than class one. Because the article 12-A special state equalization ratio reflects the average assessment ratio for **all** four classes of property, using it to compute equalized assessed valuation for class one and class two properties only, produces distorted values for each of these classes. More specifically, using the article 12-A special state equalization ratio to compute equalized assessed valuation artificially inflates the capital values for class two properties resulting in a doubling of the statutory eight and one-half percent return on capital value, while at the same time, it artificially decreases the capital values for class one properties, resulting in a return on capital value that is less than half of the statutory rate. In light of the statutory eight and one-half percent return on capital value, the unforeseen result of a return on a distorted measure of capital value, described above, is contrary to the obvious intent of local law 30. In 1989, the New York state division of housing and community renewal, which also acknowledged the gross inequity and unintended consequence that results from the utilization of the article 12-A special state equalization ratio, began using the more appropriate ratio, the article 12 tax class ratio, and continued to do so to the present. Since the creation of the class structure system the state has provided a separate ratio of assessed value to market value for each class of property. The council finds that the article 12 tax class ratio provides a more accurate measure of the value of properties for a particular class than the article 12-A special state equalization ratio because the article 12 tax class ratio measures the value of those properties within that particular class as opposed to the article 12-A special state equalization ratio which measures the value of all real property within the city, including one-, two- and three-family dwellings, utility property and commercial property, for the purpose of establishing the city's constitutional tax and debt limits. By requiring the appropriate tax class ratio established pursuant to article 12 to be used in calculating equalized assessed valuation, this local law fulfills the obvious intent of the council in a way that fairly serves both landlords and tenants. § 3. Notwithstanding any other provision of this local law, the standard adjustment factor for the 1996/97 maximum base rent cycle shall be computed in accordance with the provisions of section 2 of this local law. § 4. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. § 5. This local law shall take effect immediately.

NOTE 2. Provisions of L.L. 67/2003: § 5. This local law shall take effect immediately, and shall be retroactive to and shall be deemed to have been in full force and effect on and after September 1, 2003. Notwithstanding any other provision of the administrative code of the city of New York, any person who on or after September 1, 2003 through the date of enactment of this local law would have been eligible for a rent increase exemption order pursuant to such code but for the fact that his or her income exceeded the income limitation of twenty

thousand dollars in effect before the enactment of this local law, and who as a result of the enactment of this local law increasing the maximum income limitation to twenty-four thousand dollars is eligible for such order on or after September 1, 2003 through the date of enactment of this local law may file an application for such order within ninety days of the enactment of this local law. Any such rent increase exemption order issued to such applicant shall be effective as of that date on or after September 1, 2003 through the date of enactment of this local law upon which such person would have been eligible for such rent increase exemption order but for the fact that his or her income exceeded the income limitation of twenty thousand dollars in effect before the enactment of this local law.

CASE NOTES FROM FORMER SECTION

¶ 1. Allocating a decrease in rent resulting from the elimination of lobby attendants equally among all tenants without regard for the rent paid by each or the size of their respective apartments was arbitrary. In re Jambaru Realty Corp., 148 (98) N.Y.L.J. (11-21-62) 14, Col. 3 F.

¶ 2. An order granting an increase in rents was not arbitrary where the tenant rented the apartment for himself, his wife and his two children, but thereafter his wife and children ceased to live with him and he took three cousins into the premises. Increased occupancy is not predicated solely upon the number of tenants, but considers whether the tenants are members of an immediate family. In re Goldstein, 148 (39) N.Y.L.J. (8-24-62) 6, Col. 4 M.

¶ 3. The landlord of a 35-unit apartment was not entitled to a temporary injunction restraining the Rent Administrator from reducing maximum rents because of violations posted against the apartment house where there were no showing that such reduction would cause irreparable damage to the owner. A reduction could be reviewed in an Article 78 proceeding and if the owner was successful, he could maintain an action against the tenants for the full back rents. Yorkshire Associates v. Halpern, 148 (28) N.Y.L.J. (8-9-62) 6, Col. 2 F.

¶ 4. A second full increase for the replacement of a refrigerator was properly denied where there was no evidence that the refrigerator (a gas type prohibited by the Health Department) was absolutely banned or could not have been adjusted. In re Ginsburg, 148 (27) N.Y.L.J. (8-8-62) 4, Col. 6 T.

¶ 5. The requirement of subdivision b of § 91 of the regulations, that a protest be verified by each tenant joining therein, may be waived by the agency, in light of the power to initiate a proceeding on its own initiative with respect to the maintenance of essential services. Matter of Jambaru Realty Corp., 19 App. Div. 2d 700, 241 NYS2d 460 [1963].

¶ 6. A landlord's application for a rent increase based on the net annual return of the property was denied by a State officer on the ground of abnormal financing. Thereafter, a protest was filed with the City Rent Administrator. The landlord was entitled to a hearing on the merits despite the provision barring rent increases sought before two years had elapsed since purchase. Matter of 35th Avenue Realty Co., 40 Misc 2d 247, 242 NYS2d 872 [1963].

¶ 7. The provisions of this section which provide for a rent increase if the landlord is earning less than 6% of the value of his premises; value being defined as current assessed value at the time the application is filed, is not unconstitutional. Hartley Holding Corp. v. Gabel, 13 N.Y. 2d 36, 247 NYS2d 77, 196 NE2d 537 [1963].

¶ 8. A two-year lease provided that the maximum rent would be automatically increased by a permissible percentage (Regs. 33.2). It also provided for the installation of improvements and for additional rent increases therefor. The landlord obtained a rent increase on documents showing the cost of certain improvements. On a subsequent proceeding it was shown that the landlord had fraudulently exaggerated the cost of the improvements. **Held:**the Administrator properly refused to investigate the truthfulness of the landlord's fraud tainted application but it was error to revoke the "automatically increased" rental. Matter of Lucot, Inc., 20 App. Div. 2d 94, 244 NYS2d 582 [1963], aff'd, 15 NY2d 774, 257 NYS2d 343, 205 NE2d 535 [1965].

¶ 9. The Administrator properly reduced rents on housing accommodations upon a certification by the Department of Buildings that the building was a fire hazard and detrimental to life and health. It was not necessary that the

Administrator make an independent investigation of the conditions. Matter of F & M Realty Co., 40 Misc 2d 1098, 244 NYS2d 660 [1963], aff'd 21 App. Div. 2d 853, 252 NYS2d 285 [1964].

¶ 10. State Rent Administrator's determination that price paid by landlord for property was bona fide and on normal financing terms and was proper basis on which to compute whether property was yielding 6% return was binding on subsequently established city rent administrator who could not use lesser assessed valuation. Matter of Ess Pee Bee Realty Corp., 22 App. Div. 2d 207, 254 NYS2d 377 [1964], aff'd, 16 NY2d 524, 208 NE2d 450, 260 NYS2d 640 [1965].

¶ 11. The Rent Administrator, in a proceeding to increase rent sufficiently to allow a 6% return, could not disregard both the assessed valuation and the purchase price of the property in favor of a price which was $30,000 lower than the price paid by the petitioner and which had been paid by a predecessor in title three months before petitioner acquired the property. Matter of Maflo Holding Corp. v. Gabel 22 App. Div. 2d 198, 254 N.Y.S. 2d 429 [1964], aff'd 16 N.Y. 2d 577, 260 NYS2d 845, 208 NE2d 787 [1955].

¶ 12. City rent regulations (§ 33, subd. d, par 1) providing for not more than one order adjusting rents in a 24-month period is invalid as repugnant to this section. Miller v. Gabel, 41 Misc. 2d 970, 246 NYS2d 964 [1964], aff'd, 251 NYS 1009 [1964].

¶ 13. Failure to make independent physical inspection of premises to verify that landlord was providing essential services was ground to remand order granting rent increase. Matter of Klinger, 41 Misc. 2d 955.

¶ 14. A 15% limitation on rent adjustments over any 24-month period was applicable to prior adjustment increases granted by the State Rent Administrator. Matter of 1825 Realty Co. v. Gabel, 44 Misc. 2d 767, 254 NYS2d 893 [1964].

¶ 15. A landlord is entitled as a matter of right to a rent increase sufficient to yield him a 6% net annual return on the value of his property. The administrator erred in rejecting an application for an increase which was supported by a seventeen page itemized schedule of operating expenses totaling $59,628. There were one or two "fraudulent bills" of only $102 and commissioner took more than two years to come to decision to reject application. Matter of 911 Walton Associates, 45 Misc. 2d 224, 256 NYS2d 450 [1964].

¶ 16. A new depreciation basis taken in property upon the death of the former owner, pursuant to the Federal income tax rules, provided the owner with a depreciation allowance which should be considered in an application for a maximum rent adjustment. Matter of Klorfein, 21 App. Div. 2d 773, 250 NYS2d 795 [1964].

¶ 17. Where two apartment houses located on opposite sides of the street were purchased together for $820,000 by separate partnerships composd of the same persons and a portion of the total purchase price was allocated to each of the two properties following in close ratio the respective assessments, rent roles, mortgages, number of apartments and prior sales, City Rent and Rehabilitation Administration was not warranted in rejecting apportioned purchase price and substituting the assessed value as a basis for a rent determination. Where as here the evidence showed the allocation of a total fair price to be consistent with the total, a fair allocation of a bona fide purchase with a normal financing should be treated in the same way as separate purchases at the allocated prices. Matter of 1455 Realty Co. v. Berman, 21 NY2d 675, 234 NE2d 258, 287 NYS2d 97 [1967].

¶ 18. The District Director's order establishing a maximum rent is binding on the Civil Court and the order of the rent commission may not be collaterally attacked. Thompson Properties, Inc. v. DiBiase, 57 Misc 2d 1085, 294 NYS2d 220 [1968].

¶ 19. Formula for computing return is reasonable and system of rent regulation in New York City is constitutional. Felner v. Office of Rent Control, 27 NY2d 692, 314 NYS2d 11, 262 NE2d 217 [1970].

¶ 20. Section 2 of LL No. 24 of 1973 which repealed the maximum base rent provisions (MBR) violated Laws

1971, ch. 372 which prohibits enactment in cities with population of one million or more of any local legislation subjecting rent-controlled housing accommodations to "more stringent or restrictive provisions of regulation and control than those presently in effect" but section 3 of LL No. 24 of 1973 which repealed the $8^1/_2$% hardship increase provided for by LL No. 30 of 1970 was valid. 210 East 68th St. Corp. v. City Rent Agency, 34 NY2d 560, 354 NYS2d 941, 310 NE2d 538 [1974].

¶ 21. Rent Commissioner's determination which established rents for two apartments and directed refunds of overcharges was arbitrary where the maximum rent of record ceased to exist because of a renovation coupled with lawful occupancy. In the Matter of East 12th Associates v. Leventhal, 46 App. Div. 2d 657 [1974].

¶ 22. A kitchen, for purposes of computing the maximum base rent in a rent-controlled multiple dwelling is not required to be more than 59 square feet to be counted as a room. Matter of Plaza Management Co. v. Dept of Rent & Housing Maintenance, 80 Misc 2d 348 [1974].

¶ 23. Housing and Development Administration had power to impose a service fee to process 1974-1975 maximum base rent-maximum collectible rent increase orders. Carole Ann Realties v. Starr, 41 NY2d 992 [1977].

¶ 24. Landlord was properly denied "first rents" where renovations costing over $100,000 did not constitute a substantial rehabilitation of the rental premises. Asen Bros. & Brook v. Leventhal, 54 NY2d 839 [1981].

¶ 25. Although landlord had substantially complied with 80% of the repairs for the non-rent-impairing violations on record at least 6 months before effective date of rent increase. Maximum Base Rent increases would not be granted because landlord had not repaired 80% of the violations and the 80% rule is in itself a "substantial compliance" rule which should not be further reduced. Pearce, Mayer & Greer v. Joy, 48 NY2d 680 [1979], aff'g, 63 AD2d 928.

¶ 26. Words "individual adjustment of maximum rents" in subdivision g is to be construed as meaning that each adjustment shall be considered separately and individually and word "individual" is not to be read as "one and only one", hence landlord who obtained government assisted financing to rehabilitate housing accommodations could obtain a second rent adjustment to enable it to meet loan obligations. Johnson v. Joy, 48 NY2d 689 [1979], aff'g, 65 AD2d 701.

¶ 27. Petitioner who corrected 19 out of 24 non-rent-impairing violations which was 79.16% was not entitled to a maximum base rent increase since substantial compliance is not sufficient to satisfy the 80% rule. Matter of 304 W. 89 St. Realty Corp. v. Joy, 72 AD2d 535 421 NYS2d 71 [1979].

¶ 28. Petitioner senior citizen is not allowed to deduct business loss in computing max. "aggregate disposable income" as fixed in § Y51-5.0n.(2)(ii) for senior citizen rent increase exemption and defined in § 34.6(d)(1) NYC Rent and Eviction Regulations.-Matter of Walinska v. NYC Dept. of Rent and Housing Maintenance, 93 AD2d 722 [1983]; affirmed 60 NY2d 658 [1983].

CASE NOTES

¶ 1. Petitioner turned 62 years of age 15 days after rent increase took effect. Departments denial of a rent increase exemption order was arbitrary and capricious. Applicant meets all the criteria of § 26-405(m)(2). This statute's purpose is to alleviate hardships on seniors of low income and it should be liberally construed. Petition remanded for reconsideration. Lee v. Biderman, 143 Misc 2d 658 [1989].

¶ 2. The administrative agency can lawfully require that an owner seeking a maximum base rent increase certify that at least 80 percent of all non-rent-impairing violations recorded against the property have been corrected. Barklee Realty Co. v. New York State Division of Housing and Community Renewal, 159 A.D.2d 416, 553 N.Y.S.2d 112 (1st Dept. 1990), appeal dismissed, 76 N.Y.2d 844, 560 N.Y.S.2d 128, lv. denied, 76 N.Y.2d 709, 563 N.Y.S.2d 61.

¶ 3. For purposes of deciding whether not to grant a maximum base rent increase, the refusal of the administrative agency to waive a violation regarding unlawful professional use of the apartment was not an abuse of discretion. Although the landlord contended that she did everything possible to terminate the use of the apartments, the agency could consider the fact that she chose to rent the apartments to professional tenants in the first place. Melohn v. New York State Division of Housing and Community Renewal, 190 A.D.2d 527, 593 N.Y.S.2d 30 (1st Dept. 1993).

¶ 4. Under the statutory scheme of rent control, the maximum base rent that a landlord can collect from a rent controlled tenant is calculated by using a formula which includes, as one of its many factors, the capital value of the property. In one case, the owners of rent controlled units challenged the method by which the state rent agency calculated the maximum base rent for apartments. The state computed the capital value component of the maximum base rent using the equalization rate under Real Property Tax Law Art. 12, which specifically measured the value of apartment buildings, rather than RPTL Art. 12-A, which measured the value of all real property within the City of New York. The court granted the landlords' petiton, holding that where Admin.Code § 26-405 specified the use of Art. 12-A in terms of equalization rates, that provision was mandatory, and the state agency could not lawfully use Article 12, even if its practice resulted in lower rents for tenants. Community Housing Improvement Program, Inc. v. New York State Division of Housing and Community Renewal, 230 A.D.2d 66, 656 N.Y.S.2d 777 (App.Div. 3d Dept. 1997).

¶ 5. The formula for the maximum base rent (MBR) for rent controlled New York City apartments ensures landlords an 8.5 percent return on capital value, defined as equalized assessed valuation under the Real Property Tax Law (RPTL). The RPTL provides two possible applicable measures of equalized assessed valuation, Article 12-A, which was formerly used, and Article 12, which the City has now adopted for use in its MBR formula. A group of landlords, whose MBR's were allegedly diminished by reason of the change, challenged the action, alleging that the City's adoption of Article 12 to measure capital value violated the Urstadt Law (Unconsolidated Laws Sec. 8605), which prohibits "more stringent or restrictive" rent regulation. The court, however, upheld the City's adoption of the Article 12 measurement. In beginning its analysis, the Court of Appeals explained that the "equalization rate" is the ratio between assessed value and market value for every local assessing unit. Under Article 12, New York City real property falls into four classes: (1) one, two and three-family homes; (2) most apartment buildings; (3) utility real property; and (4) all other real property. Article 12-A does not provide a similar classification. The court noted that the phrase "more stringent or restrictive" was not the equivalent of "less profitable" to landlords. Then, the court distinguished the instant case from others in which the agency's action has been struck down. For example, prior cases struck down the City's placement of a cap on certain types of increases, and the City's removal of a class of apartments from eligibility for hardship increases. On the other hand, in the instant case, the City's action did not diminish the landlord's rights under the MBR formula, but merely led to a more accurate valuation of properties. The landlords did not have a vested interest in overvaluation, the court said. City of New York v. DHCR, 97 N.Y.2d 216, 739 N.Y.S.2d 333 (2001).

¶ 6. The New York City Department for the Aging (DFTA) properly denied petitioner's application to transfer her deceased father's Senior Citizen Rent Increase Exemption (SCRIE) benefits to her, since petitioner had not been listed as a household member on either her father's initial application for SCRIE benefits or on his subsequently filed SCRIE re-certification forms. Those forms contained specific inquiries respecting household constituents. The DATA policy that SCIRE benefits were not transferable unless the person requesting transfer of benefits was listed as a household member on the original application or on subsequent re-certification application was rationally based, since it prevented people who were not members of the household from falsely claiming receipt of another's SCIRE benefits upon termination of the original applicant's benefits. Rebecca v. City of New York, 720 N.Y.S.2d 136 (App.Div. 1st Dept. 2001); 280 A.D.2d 283 and leave to appeal denied, 96 N.Y.2d 722, 733 N.Y.S.2d 374 (2001).

¶ 7. In calculating the Fair Market Rent for the subject apartment, DHCR added in a guidelines increase based upon a claimed increase in the Maximum Base Rent (MBR). The court, however, held that was improper to add in an MBR increase without first determining whether the landlord would have been entitled to such an increase. The court noted that the increase in the MBR would not have been automatic. To obtain an order of eligibility from DHCR, the landlord would have had to, among other things, submit a written certification to DHCR, six months before the effective

date of the increase, that it has cleared all rent-impairing violations, as well as 80 percent of all other violations. Schaper & Falck v. DHCR, N.Y.L.J., June 5, 2001, page 18, col. 2 (Sup.Ct. New York Co.).

¶ 8. Where a landlord has not removed at least 80 percent of the violations of record on the subject premises within six months of the application for a Maximum Base Rent Increase, the agency will deny the application. Mayflower Devel. Corp. v. Roldan, 298 A.D.2d 291, 748 N.Y.S.2d 746 (1st Dept. 2002).

¶ 9. A landlord who seeks a Maximum Base Rent increase must certify that it is maintaining essential services and that six months prior to the effective date of the MBR increase, it has corrected all of the rent-impairing and at least 80 percent of the non-rent impairing housing code violations. A tenant who wishes to oppose the rent increase must file with DHCR a complaint for reduction in services. A tenant who has not done so will not be able to challenge the owner's certification, and thus will not be able to challenge DHCR's approval of the MBR increase. Drennan v. New York State Div. of Housing and Community Renewal, 30 A.D.3d 281, 818 N.Y.S.2d 24 (1st Dept. 2006).

FOOTNOTES

36

[Footnote 36]: ** So in original. ("than" s.b. "that").

37

[Footnote 37]: ** So in original. ("." inadvertently added).

NYC Administrative Code 26-406

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-406 Tax abatement for properties subject to rent exemption orders.

a. Tax abatement, pursuant to the provisions of section four hundred sixty-seven-b of the real property tax law, shall be granted with respect to any real property for which a rent exemption order is issued under subdivision m of section 26-405 of this chapter to the tenant of any housing accommodation contained therein. The rent exemption order shall constitute the tax abatement certificate.

b. The real estate tax imposed upon any real property for which a rent exemption order is issued, shall be reduced and abated by an amount equal to the difference between (1) the sum of the maximum rents collectible under such orders, and (2) the sum of rents that would be collectible from the tenants of such housing accommodations if no exemption had been granted pursuant to subdivision m of section 26-405 of this chapter.

c. For any individual housing accommodation, the tax abatement computed pursuant to subdivision b of this section shall be available with respect to a period commencing on the effective date of the initial rent exemption order, or January first, nineteen hundred seventy-two, whichever is later, and ending on the expiration date of such order or on the effective date of an order terminating the rent exemption. Notwithstanding any other provision of law, when a head of a household to whom a then current, valid tax abatement certificate has been issued under this chapter, chapter four or chapter seven of this title moves his or her principal residence to a subsequent dwelling unit subject to regulation under this chapter, the head of the household may apply to the department for the aging or such other agency as the mayor shall designate for a tax abatement certificate relating to the subsequent dwelling unit, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent for the subsequent dwelling unit which is the least of the following:

(1) the amount by which the rent for the subsequent dwelling unit exceeds the last rent, as reduced, which the head of the household was required to actually pay in the original dwelling unit;

(2) the last amount deducted from the maximum rent or legal regulated rent meaning the most recent monthly deduction for the applicant in the original dwelling unit pursuant to this section, section 26-509 or section 26-605 of this title; or

(3) where the head of the household does not receive a monthly allowance for shelter pursuant to the social services law, the amount by which the maximum rent or legal regulated rent of the subsequent dwelling unit exceeds one-third of the combined income of all members of the household.

Such certificate shall be effective as of the first day of the month in which the tenant applied for such exemption or as of the date the tenant took occupancy of the subsequent dwelling unit, whichever is later, provided both occur after the effective date of this law.

d. Prior to the commencement of each fiscal year, the department for the aging or such other agency as the mayor shall designate shall notify the department of finance of the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders were in effect for all or any part of the preceding calendar year. The commissioner of finance shall make the appropriate adjustment in the real estate tax payable in such fiscal year.

e. Tax abatement pursuant to this section shall be in addition to any other tax abatement authorized by law, but shall not reduce the tax for any fiscal year below zero. In the event that the tax abatement certificate authorizes an amount of deduction in excess of the real estate installment, then the balance may be applied to any subsequent installment until exhausted. In such a case the owner shall submit with his or her real estate tax bill and remittance, a verified statement in such form as prescribed by the commissioner of finance setting forth the carry over amount and the amounts previously applied; provided, however, that at the request of the owner such balance shall be paid to the owner by the commissioner of finance in lieu of being applied to any subsequent installment, except where the owner is in arrears in the payment of real estate taxes on any property. For the purposes of this subdivision, where the owner is a corporation, it shall be deemed to be in arrears when any of the officers, directors or any person holding an interest in more than ten percent of the issued and outstanding stock of such corporation is in arrears in the payment of real estate taxes on any property; where title is held by a nominee, the owner shall be deemed to be in arrears when the person for whose benefit such title is held is in arrears in the payment of real estate taxes on any property.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subds. a, b amended L.L. 40/1992 § 8, eff. July 1, 1992.

Subd. c open par amended L.L. 76/2005 § 8, eff. Oct. 10, 2005.

Subd. c open par. amended L.L. 40/1992 § 9, eff. July 1, 1992.

Subd. d amended L.L. 76/2005 § 9, eff. Oct. 10, 2005.

Subd. d amended L.L. 40/1992 § 10, eff. July 1, 1992.

DERIVATION

Formerly § Y51-5.1 added LL 51/1972 § 4

Sub b amended LL 78/1972 § 1

Sub c amended LL 19/1977 § 1

Sub e amended LL 19/1977 § 4

Sub c amended LL 62/1977 § 1

Sub e amended LL 29/1982 § 9

Sub e amended LL 44/1983 § 1

Sub c amended LL 98/1985 § 3

CASE NOTES FROM FORMER SECTION

¶ 1. Senior Citizen Rent Increase Exemption Law established by this section is a constitutional exercise of the police power and the housing situation faced by elderly poor persons was a reasonable basis for legislative action. Parrino v. Lindsay, 66 Misc. 2d 342, 321 NYS2d 311 [1971], affirmed, 29 NY2d 30, 323 NYS2d 684, 272 NE2d 67 [1971].

CASE NOTES

¶ 1. A landlord brought a holdover proceeding against the occupant of an apartment, alleging that rent control did not apply to any buildings with one or two residential units that became vacant after April 1, 1953, and that it did not matter that the building also contained a commercial unit on the ground floor. The court, however, held that the one-or-two-family exemption to rent control did not apply where, as here, the building had a commercial unit. In other words, the exemption applied only with respect to buildings that have been used exclusively for residential purposes. 1664 Sheepshead Bay Road Realty Corp. v. Dalton, N.Y.L.J., Dec. 6, 2000, page 29, col. 4 (Civ. Ct. Kings Co.).

¶ 2. See Rebecca v. City of New York, 720 N.Y.S.2d 136 (App.Div. 1st Dept. 2001), reported under § 26-405.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-407

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-407 Labor cost pass-along.

a. Notwithstanding any provisions of this chapter, any labor cost pass-along rent increase requested of, or received from, any tenant on or after July first, nineteen hundred seventy-two, pursuant to the provisions of subparagraph (1) of paragraph one of subdivision g of section 26-405 of this title, shall not exceed the maximum rent adjustment as provided under this chapter after the effective date of this section.

b. All such increases in excess of such maximum rent are hereby declared null and void and of no effect. A tenant who paid any such excess increase shall be repaid by a cash refund or credit, to be applied against future rent, in equal installments for the same number of months for which such increase was actually collected, commencing on January first, nineteen hundred seventy-eight.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-5.2 added LL 17/1974 § 4

(legislative findings, housing emergency continues LL 17/1974 § 1)

Repealed and added LL 76/1977 § 4

(legislative findings, labor cost adjustment, LL 76/1977 § 1)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-408

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-408 Evictions.

a. No tenant, so long as he or she continues to pay the rent to which the landlord is entitled, shall be removed from any housing accommodation which is subject to rent control under this chapter by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession notwithstanding the fact that the tenant has no lease or that his or her lease, or other rental agreement, has expired or otherwise terminated, notwithstanding any contract, lease agreement, or obligation heretofore or hereafter entered into which provides for surrender of possession, or which otherwise provides contrary hereto, except on one or more of the following grounds, or unless the landlord has obtained a certificate of eviction pursuant to subdivision b of this section:

(1) The tenant is violating a substantial obligation of his or her tenancy other than the obligation to surrender possession of such housing accommodation and has failed to cure such violation after written notice by the landlord that the violation cease within ten days, or within the three month period immediately prior to the commencement of the proceeding the tenant has wilfully violated such an obligation inflicting serious and substantial injury to the landlord; or

(2) The tenant is committing or permitting a nuisance in such housing accommodation; or is maliciously or by reason of gross negligence substantially damaging the housing accommodation; or his or her conduct is such as to interfere substantially with the comfort and safety of the landlord or of other tenants or occupants of the same or other adjacent building or structure; or

(3) Occupancy of the housing accommodation by the tenant is illegal because of the requirements of law, and the landlord is subject to civil or criminal penalties therefor, or both, provided, however, that such occupancy shall not

be considered illegal by reason of violations placed against the housing accommodations or the building in which same are located by any department or agency of the city having jurisdiction unless such department or agency has issued an order requiring the tenants to vacate said accommodation or building or unless such occupancy for such building or such violations relied on by the landlord result from an act, omission or situation caused or created by the tenant; or

(4) The tenant is using or permitting such housing accommodation to be used for an immoral or illegal purpose; or

(5) The tenant who had a written lease or other written rental agreement which terminated or shall terminate on or after May first, nineteen hundred fifty, has refused upon demand of the landlord to execute a written extension or renewal thereof for a further term of like duration not in excess of one year but otherwise on the same terms and conditions as the previous lease except in so far as such terms and conditions are inconsistent with this chapter; or

(6) The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of inspection or of showing the accommodation to a prospective purchaser, mortgagee or prospective mortgagee, or other person having a legitimate interest therein; provided, however, that in the latter event such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodation is contrary to the provisions of the tenant's lease or other rental agreement.

(7) The eviction is sought by the owner of a dwelling unit or the shares allocated thereto where such dwelling unit is located in a structure owned as a cooperative or as a condominium and an offering prospectus for the conversion of such structure pursuant to an eviction plan shall have been submitted to the attorney general pursuant to section three hundred fifty-two-eeee of the general business law and accepted for filing by the attorney general, and been declared effective in accordance with such law, and any right of continued occupancy granted by such law to a non-purchasing tenant in occupancy of such dwelling unit shall have expired; provided that the owner of the dwelling unit or the shares allocated thereto seeks in good faith to recover possession of a dwelling unit for his or her own personal use and occupancy or for the use and occupancy of his or her immediate family.

b. No tenant shall be removed or evicted on grounds other than those stated in subdivision a of this section unless on application of the landlord the city rent agency shall issue an order granting a certificate of eviction in accordance with its rules and regulations designed to effectuate the purposes of this title, permitting the landlord to pursue his or her remedies at law. The city rent agency shall issue such an order whenever it finds that:

(1) The landlord seeks in good faith to recover possession of a housing accommodation because of immediate and compelling necessity for his or her own personal use and occupancy or for the use and occupancy of his or her immediate family provided, however, that this subdivision shall not apply where a member of the household lawfully occupying the housing accommodation is sixty-two years of age or older, has been a tenant in a housing accommodation in that building for twenty years or more, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment; or

(2) The landlord seeks in good faith to recover possession of a housing accommodation for which the tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodation are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodation is used by the tenant as his or her dwelling; or

(3) The landlord seeks in good faith to recover possession of a housing accommodation for the immediate purpose of substantially altering or remodeling it, provided that the landlord shall have secured such approval therefor as is required by law and the city rent agency determines that the issuance of the order granting the certificate of

eviction is not inconsistent with the purpose of this chapter; or

(4) The landlord seeks in good faith to recover possession of housing accommodations for the immediate purpose of demolishing them, and the city rent agency determines that such demolition is to be effected for the purpose of constructing a new building, provided that:

(a) If the purpose of such demolition is to construct a new building containing housing accommodations, no certificate of eviction shall be granted under this paragraph unless such agency determines that such new building will contain at least twenty per centum more housing accommodations consisting of self-contained family units (as defined by regulations issued by such agency, with due regard for the shortage of housing accommodations suitable for family occupancy and for the purposes of this chapter in relation thereto) than are contained in the structure to be demolished; except, however, that where as a result of conditions detrimental to life or health of the tenants, violations have been placed upon the structure containing the housing accommodations by any agency of the city having jurisdiction over such matters and the cost of removing such violations would be substantially equal to or would exceed the assessed valuation of the structure, the new building shall only be required to make provision for a greater number of housing accommodations consisting of self-contained family units (as so defined by regulation) than are contained in the structure to be demolished; and

(b) The city rent agency shall, by regulation, as a condition to the granting of certificates of eviction under this paragraph , require the relocation of the tenants in other suitable accommodations, provided that the city rent agency may, by regulation, authorize the granting of such certificates as to any tenants or classes of tenants without such requirement of relocation, where such exemption will not result in hardship to such tenants or classes of tenants and will not be inconsistent with the purposes of this chapter; and

(c) The city rent agency may, by regulation, in order to carry out the purposes of this chapter, impose additional conditions to the granting of certificates of eviction under this paragraph , including, but not limited to, the payment of stipends to the tenants by the landlord in such amounts and subject to such variations and classifications as such agency may determine to be reasonably necessary; and

(d) No certificate of eviction shall be issued pursuant to this paragraph unless the landlord shall have secured such approval as is required by law for the construction sought to be effected, and the city rent agency determines that the issuance of such certificate is not inconsistent with the purpose of this chapter.

(5) Notwithstanding any provisions to the contrary contained in this subdivision or in subdivision d of section 26-410 of this chapter or in the local emergency housing rent control act:

(a) no application for a certificate of eviction under paragraph three or four of this subdivision and no application for a certificate of eviction under paragraph one of subdivision j or under subdivision c of this section for the purpose of withdrawing a housing accommodation from the housing market on the grounds that the continued operation of such housing accommodation would impose undue hardship upon the landlord, pending or made on or after the effective date hereof shall be granted by the city rent agency unless the city rent agency finds that there is no reasonable possibility that the landlord can make a net annual return of eight and one-half per centum of the assessed value of the subject property without recourse to the remedy provided in said paragraph three or four or said subdivision c or j and finds that neither the landlord nor his or her immediate predecessor in interest has intentionally or willfully managed the property to impair the landlord's ability to earn such return; and

(b) the effectiveness of any certificate of eviction or of any order granting a certificate of eviction pursuant to paragraphs three and four of this subdivision shall be suspended, and no tenant may be evicted pursuant to any such certificate or order, unless the city rent agency:

(i) finds that there is no reasonable possibility that the landlord can make a net annual return of eight and one-half per centum of the assessed value of the subject property without recourse to the remedy provided in said

paragraphs three and four and finds that neither the landlord nor his or her immediate predecessor in interest has intentionally or willfully managed the property to impair the landlord's ability to earn such return; and

(ii) issues an order reinstating the effectiveness of any certificate of eviction suspended pursuant to this paragraph. The pendency of any judicial proceeding or appeal shall in no way prevent the taking effect of the relief granted in this subparagraph.

(c) the provisions of this paragraph shall not apply to an application for a certificate of eviction from a housing accommodation when the landlord seeks in good faith to recover possession thereof for the immediate purpose of substantially altering or remodelling it or for the immediate purpose of demolishing it for the purpose of constructing a new building when such altering or remodelling or the construction of such new building is to be aided by interest reduction payments under section two hundred thirty-six of the national housing act.

(6) Neither the provisions of subparagraph (a) of paragraph four of this subdivision, which require that the new building contain more than or equal to the number of housing accommodations that are contained in the structure to be demolished or substantially altered or remodeled nor the provisions of paragraph five of this subdivision shall apply with respect to any building in which there remains (A) three or fewer occupied apartments which constitute ten percent or less of the total dwelling units in the building or (B) one occupied apartment if the building contains ten or fewer apartments but only on the condition that the tenant is provided with the relocation, moving expense, stipend and any other benefits provided under the corresponding provisions of the rent stabilization law of nineteen hundred sixty-nine. In the event of a substantial alteration or remodeling of a building falling within the limitations of this paragraph, all of the relocation provisions available to an owner for demolition shall apply.

c. The city rent agency may from time to time, to effectuate the purposes of this chapter, adopt, promulgate, amend or rescind such rules, regulations or orders as it may deem necessary or proper for the control of evictions. Any such rules, regulations or orders may include, in addition to any other provisions authorized by this subdivision , provisions restricting the filing of applications for, or the issuance of orders granting, certificates of eviction where such agency finds that a course of conduct has been engaged in which is proscribed by subdivision d of section 26-412 of this chapter. The agency shall also require, prior to the filing of plans with the department of buildings for a new building or alteration on the site of controlled housing accommodations and prior to the filing of an application for a permit for the demolition or removal of an existing multiple dwelling which contains controlled housing accommodations, that the applicant certify to and file with the agency such information and give such notice to tenants as it deems necessary to prevent evasion of the law and regulations governing evictions. It may also require that an order granting a certificate of eviction be obtained from it prior to the institution of any action or proceeding for the recovery of possession of any housing accommodation subject to rent control under this chapter upon the grounds specified in subdivision b of this section or where it finds that the requested removal or eviction is not inconsistent with the purposes of this chapter and would not be likely to result in circumvention or evasion thereof; provided, however, that no such order shall be required in any action or proceeding brought pursuant to the provisions of subdivision a of this section.

d. (1) The city rent agency, on its own initiative or on application of a tenant, may revoke or cancel an order granting a certificate of eviction at any time prior to the execution of a warrant in a summary proceeding to recover possession of real property by a court whenever it finds that:

(a) The certificate of eviction was obtained by fraud or illegality; or

(b) The landlord's intentions or circumstances have so changed that the premises, possession of which is sought, will not be used for the purpose specified in the certificate.

(2) The commencement of a proceeding by the city rent agency to revoke or cancel an order granting a certificate of eviction shall stay such order until the final determination of the proceeding regardless of whether the waiting period in the order has already expired. In the event the city rent agency cancels or revokes such an order, the

court having jurisdiction of any summary proceeding instituted in such case shall take appropriate action to dismiss the application for removal of the tenant from the real property and to vacate and annul any final order or warrant granted or issued by the court in the matter.

e. Notwithstanding the preceding provisions of this section, the state, the city, or the New York city housing authority may recover possession of any housing accommodations operated by it where such action or proceeding is authorized by statute or regulations under which such accommodations are administered.

f. Any order of the city rent agency under this section granting a certificate of eviction shall be subject to judicial review only in the manner prescribed by subdivision eight of section one of the state enabling act and sections 26-410 and 26-411 of this chapter.

g. (1) Where after the city rent agency has granted a certificate of eviction authorizing the landlord to pursue his or her remedies pursuant to law to acquire possession and a tenant voluntarily removes from a housing accommodation or has been removed therefrom by action or proceeding to evict from or recover possession of a housing accommodation upon the ground that the landlord seeks in good faith to recover possession of such accommodation:

(a) For his or her immediate and personal use, or for the immediate and personal use by a member or members of his or her immediate family, and such landlord or members of his or her immediate family shall fail to occupy such accommodation within thirty days after the tenant vacates, or such landlord shall lease or rent such space or permit occupancy thereof by a third person within a period of one year after such removal of the tenant; or

(b) For the immediate purpose of withdrawing such housing accommodation from the rental market and such landlord shall lease or sell the housing accommodation or the space previously occupied thereby, or permit use thereof in a manner other than contemplated in such eviction certificate within a period of one year after such removal of the tenant; or

(c) For the immediate purpose of altering or remodeling such housing accommodation, and the landlord shall fail to start the work of alteration or remodeling of such housing accommodation within ninety days after the removal, on the ground that he or she required possession for the purpose of effecting such alteration or remodeling, of the last tenant whose removal is necessary to enable the landlord to effect such alteration or remodeling of such accommodation, or if after having commenced such work shall fail or neglect to prosecute the work with reasonable diligence; or

(d) For the immediate purpose of demolishing such housing accommodations and constructing a new building in accordance with approved plans, or reasonable amendment thereof, and the landlord has failed to complete the demolition within six months after the removal of the last tenant or, having demolished the premises, has failed or neglected to proceed with the new construction within ninety days after the completion of such demolition, or having commenced such construction work has failed or neglected to prosecute such work with reasonable diligence; or

(e) For some purpose other than those specified above for which the removal of the tenant was sought and the landlord has failed to use the vacated premises for such purpose; such landlord shall, unless for good cause shown, be liable to the tenant for three times the damages sustained on account of such removal plus reasonable attorney's fees and costs as determined by the court. In addition to any other damage, the cost of removal of property shall be a lawful measure of damage. The remedy herein provided for shall be in addition to those provided for in subdivision h of this section, paragraph (a) of subdivision ten of section one of the state enabling act and subdivision a of section 26-413 of this chapter.

(2) The acts and omissions mentioned in subparagraphs (a), (b), (c), (d) and (e) of paragraph one of this subdivision , on the part of a landlord after issuance of a certificate of eviction, are hereby declared to be inconsistent with the purposes for which such certificate of eviction was issued.

h. Where after the city rent agency has granted a certificate of eviction authorizing the landlord to pursue his or her remedies pursuant to law to acquire possession for any purpose stated in subdivision b or j of this section or for some other stated purpose, and a tenant voluntarily removes from a housing accommodation or has been removed therefrom by action or proceeding to evict from or recover possession of a housing accommodation and the landlord or any successor landlord of the premises does not use the housing accommodation for the purpose specified in such certificate of eviction, the vacated accommodation or any replacement or subdivision thereof shall, unless the city rent agency approves such different purpose, be deemed a housing accommodation subject to control, notwithstanding any definition of that term in this chapter to the contrary. Such approval shall be granted whenever the city rent agency finds that the failure or omission to use the housing accommodation for the purpose specified in such certificate was not inconsistent with the purpose of this chapter and would not be likely to result in the circumvention or evasion thereof. The remedy herein provided for shall be in addition to those provided for in subdivision g of this section, paragraph (a) of subdivision ten of section one of the state enabling act and subdivision a of section 26-413 of this chapter.

i. Any statutory tenant who vacates a housing accommodation without giving the landlord at least thirty days' written notice by registered or certified mail of his or her intention to vacate, shall be liable to the landlord for the loss of rent suffered by the landlord, but not exceeding one month's rent, except where the tenant has been removed or vacates pursuant to the provisions of this section. Such notice shall be postmarked on or before the last day of the rental period immediately prior to such thirty-day period.

j. (1) Nothing in this chapter shall be construed to require any person to offer any housing accommodations for rent, but housing accommodations already on the rental market may be withdrawn only after prior written approval of the city rent agency, if such withdrawal requires that a tenant be evicted from such accommodations.

(2) The city rent agency, in order to carry out the purposes of this chapter, may issue regulations providing for issuance of certificates of eviction in any case where the landlord seeks such approval in order to use the premises (including the building or land) (a) for the purpose of conducting a business, or (b) where the landlord is a hospital, convent, asylum, public institution, college, school or any institution operated exclusively for charitable, religious or educational purposes on a non profit basis and the landlord seeks such approval in order to use the premises (including the building or land) or any part thereof in connection with the landlord's charitable, religious or educational purposes; such agency, if it grants approval, shall condition same upon compliance by the landlord with designated requirements which may consist of any conditions that such agency would have authority to prescribe by regulation under subparagraphs (b) and (c) of paragraph four of subdivision b of this section with respect to applications for certificates of eviction under such paragraph four provided, however, that such agency shall not condition any such approval granted to a hospital, convent, asylum, public institution, college, school, or any institution operated exclusively for charitable, religious or educational purposes upon compliance with requirements exceeding or less than those applicable to any private owner in similar circumstances. Nothing contained in this paragraph shall be construed as authorizing or requiring such agency to approve the withdrawal of any housing accommodations from the rental market by any landlord for the purpose of using the premises for any business other than one in existence and conducted by such landlord at the time such withdrawal is sought. No certificate of eviction shall be issued to a nonprofit school, college, hospital, or other charitable institution, including without limitation, any organization exempt from taxation under the Federal Internal Revenue Code, which seeks to recover possession of the housing accommodations or to withdraw such accommodations from the rental or non-rental housing market, for immediate and personal use and occupancy as housing accommodations by its employees, students or members of its staff.

k. The city rent agency by order issued pursuant to its regulations may waive the requirements of subdivision b of this section where (1) the housing accommodations were vacant at the time when landlord made application for such waiver, and (2) were vacated by reason of the last tenant's voluntary surrender thereof, and (3) the landlord, in good faith, intends to demolish or substantially rehabilitate the building in which the housing accommodations are located within a period approved by the city rent agency. The failure of the landlord to comply with the conditions established by the city rent agency for the granting of the application shall subject the housing accommodations to all the provisions of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section added chap 907/1985 § 1

Subd. b par (6) added chap 116/1997 § 38, eff. June 19, 1997.

DERIVATION

Formerly § Y51-6.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1534

(formerly § Y41-6.0)

Sub b op par amended chap 100/1963 § 1534

Sub f, g, h amended chap 100/1963 lst 1534

Sub c amended LL 67/1963 § 5

Sub j par 2 amended LL 3/1967 § 1

Sub a par 3 amended LL 30/1970 § 8

Sub c amended LL 30/1970 § 20

Sub k added LL 30/1970 § 21

Sub j par 2 amended LL 30/1970 § 22

Sub b par 5 added chap 1022/1974 § 1

Sub b par 5 subpar a amended chap 360/1975 § 1

Sub b par 5 subpar c added chap 360/1975 § 2

Sub a par 7 added chap 555/1982 § 3

(legislative findings, conditions of non-purchasing tenants chap 555/1982 § 1)

(see expiration date chap 555/1982 § 10)

Sub b par 1 amended chap 234/1984 § 1

(see expiration provisions chap 234/1984 § 4)

CASE NOTES FROM FORMER SECTION

¶ 1. The owner of a building was entitled to a certificate of eviction to permit him and his family to occupy the apartment. Tenant's claim that owner possessed diplomatic immunity and therefore would not be required to respond in damages if subsequent events showed that he had not proceeded in good faith was not sufficient grounds to deny a certificate.-In re Pinner, 148 (25) N.Y.L.J. (8-6-62) 7, Col. 8 T.

¶ 2. A tenant who vacates premises pursuant to a certificate of eviction is not required to give prior notice of his intention to vacate. Petrelli v. Kagel, 37 Misc 2d 246, 235 NYS2d 383 [1962].

¶ 3. The denial of a certificate of eviction was not arbitrary where it was sought by building owner so that the apartment could be used as office-studio by her husband, an industrial designer. Claim that husband worked late and that his office was 10 blocks from his home did not show an immediate and compelling necessity. Besides, eviction is permitted only when the apartment is to be used for living accommodations, not when it is to be used for total commercial purposes. Miscallef v. Gabel, 148 (87) N.Y.L.J. (11-2-62) 15, Col. 6 M.

¶ 4. The first floor of a five-room apartment housed two families; the owner and her unmarried daughter, and the landlord's married daughter, husband and two infant children. The Administrator's finding that each family was entitled to its own separate housekeeping unit and that there was an immediate and compelling necessity for an additional apartment was not arbitrary (234 NYS2d 387). In re DeMartin (Gabel), 150 (57) N.Y.L.J. (9-19-63) 10, Col. 3 M.

¶ 5. Denial of certificate of eviction sought on ground of the subletting of the apartment by the tenants, was not arbitrary where landlord knew of the subletting and had accepted the subtenant's payment of rent while the prime tenant resided in Florida. Deveruth Corp. v. Gabel, 150 (9) N.Y.L.J. (7-12-63) 6, Col. 8 F.

¶ 6. Certificate of eviction to provide an apartment for a married couple to take care of the personal needs of the landlord, who was of advanced age, and to do janitorial chores, was properly denied where landlord's own six-room apartment had been converted in October, 1960, into two units, in May 1961 the landlord rented the apartment immediately above hers to a tenant, and another apartment had become available in July, 1962. Rapport v. Gabel, 149 (87) N.Y.L.J. (5-6-63) 19, Col. 2 T.

¶ 7. Grant of certificate of eviction to landlord who sought possession of two adjoining one-bedroom apartments to take care of the housing needs of his family, including a four-year-old child, held not arbitrary. That a rear building had been rented at several times the rental fixed for the two apartments did not place upon the landlord the burden of first choosing the rear building for his own occupancy. Morelli v. Gabel, 149 (118) N.Y.L.J. (6-19-63) 14, Col. 2 M.

¶ 8. Tenant did not breach a "substantial obligation" of his tenancy by installing a peephole in entrance door of his apartment even though rental agreement provided that tenant would not drill into, disfigure or deface any part of the building nor make any alterations since peephole served a legitimate purpose (i.e. to identify callers). Administrator's Interpretation No. 1, Supp. No. 17 (Nov. 30, 1965) 154 (107, N.Y.L.J. (12-6-65) 1, Col. 1 F.

¶ 9. Landlord of apartment house was entitled to a judgment of eviction on basis of violations of the substantial obligations of the tenancy upon proof that the tenant was feeding a great number of pigeons; that some of them went into the apartment; that pigeon excretions were abundant in area contiguous to the apartment and that there was uneaten pigeon food around the premises. Joyce Properties, Inc. v. Rubi, 157 (27) N.Y.L.J. (2-8-67) 15, Col. 4 M.

¶ 10. Maintenance of a separate residence by a tenant or fact that the tenant allowed his brother to occupy the premises from time to time is not sufficient ground for granting a certificate of eviction. Fread v. Reichman, 162 (55) N.Y.L.J. (9-17-69) 14, Col. 2 M.

¶ 11. Where landlord sought eviction of tenants of two rent controlled apartments on ground that he wanted to combine them into one apartment for his own use the Appellate Division properly reversed an order and judgment annulling the determination of the Commissioner of Rent and Housing Maintenance denying landlord's application for a certificate of eviction since the agency did not have to accept the bare assertion of good faith by the landlord's agent but could require the presentation of objective facts as a basis for its findings. R. Lyons Hickey v. Com'r of Dept. of Rent and Housing Maintenance of the City of NY, 44 NY2d 879 [1978], affirming, 58 AD2d 773.

¶ 12. Subdivision b of this section, which authorizes the agency to grant a certificate of eviction when landlord seeks to recover possession of a housing accommodation for which tenant's lease has expired or otherwise terminated

and at the time of termination the occupants are subtenants or other persons who occupied under a rental agreement with the tenant, was not applicable where landlord claimed that statutory tenants of a rent controlled apartment had moved and unlawfully transferred occupancy to their son and his wife when the alleged transfer had occurred years after such lease termination.-Walsh v. Somerville, 75 AD2d 511 [1980].

¶ 13. Where landlord does not reside in a building which consists of 12 or fewer apartments and seeks to evict on ground that he wants to occupy accommodations for personal use he need not show an "immediate and compelling necessity" but only "good faith" as to one unit but must show immediate and compelling necessity as to additional units. Kelly v. Joy, 182 (46) N.Y.L.J. (9-5-79), 10 Col. 2 M.

¶ 14. Prime tenant who sublets a rent-controlled apartment must obtain a certificate of eviction to maintain a holdover summary proceeding against the sublessee on the ground that the prime tenant seeks the apartment for her own personal use and occupancy. Muller v. Stein, 116 Misc 2d 37 [1982].

¶ 15. Tenant may not be evicted except as set forth in this section. Ground that monthly tenancy has expired is not proper ground for eviction. Tenant is a protected tenant even though lease stated that residential occupancy would be only by pres. of corp. tenant, who was individually named, and tenant now is another indiv. who became pres. of corp. following death of previous pres. Stahl Associates Co. v. Candid Productions, Inc., 122 Misc 2d 754 [1984].

¶ 16. Section Y51-6.0(b)(1) as amended effective June 19, 1984 may be applied retroactively where judgment has not yet been entered as of the effective date of the amendment in a summary proceeding commenced prior to the amendment's effective date. Budhu v. Grasso, 125 Misc 2d 284 [1984].

¶ 17. The court declined to vacate a warrant of eviction on the ground that an amendment to this section barring evictions for persons resident over twenty years was retroactive, because the amendment was enacted after the certificate of eviction became final. Pierce v. Hankins, 193 (17) N.Y.L.J. (1-25-85) 15, Col. 5 B

CASE NOTES

¶ 1. The petitioner filed an application seeking a certificate of eviction under former sec. Y51-6.0[b][1], now subsection [b][1] of this section against a tenant in possession. While the decision on the original application was being reviewed on appeal, the former section, now this subsection [b][1] was amended, which amendment took effect immediately. The amendment applies to any tenant in possession, regardless of whether the landlord's application predated the amendment. Thus the petitioner's application is denied. Lopez v. Mirabel, 127 AD2d 771, [1987].

¶ 2. Tenant qualified for eviction-exempt status pursuant to NYC Ad Cd § Y51-6.0(b)(1) as amended by ch 234/1984 by being in occupancy for 20 years. Certificate of eviction permitting landlord recovery for personal use and occupancy was under appeal when ch 234/1984 took effect. Tenant was in possession when the law took effect and cannot be evicted for this reason. Matter of Lavalle v. Scruggs-Leftwich 133 AD2d 313 [1987].

¶ 3. Evictions of senior citizens in occupancy 20 years when for landlords personal use were bared by NYC Ad Cd § 451-6.0(b)(1) as amended by ch 234/1984. These amendments are not applicable retroactively. Hyo Chung Chi v. Fink, 132 AD2d 647 [1987].

¶ 4. Tenant reaching the 20-year residency milestone is protected from eviction even if an administrative or judicial appeal is pending. The 20-year period in § 26-408(b)(1) is not a statute of limitations but a condition established by the Legislature to protect tenants. Frank McMurray v. State Division of Housing and Community Renewal, 135 AD2d 235 [1988].

¶ 5. Landlord seeks an eviction to use premises for occupancy of self and daughter pursuant to § 26-408(b). All owners seeking eviction for their personal use and occupancy must prove immediate and compelling necessity as well as good faith. Tenant's apartment is not substantially larger than landlord's present accommodation. Further basement

space of building is being used to house landlord's business and provided ample room for landlord's business files and books now filling her home. Administrative agency has jurisdiction and decision not to evict was rationally based. Buhagier v. DHRC, 138 AD2d 226 [1988].

¶ 6. Museum seeks 10 eviction certificates for rent-controlled apartments it owns in order to use such space for nonresidential institutional purposes pursuant to regulations promulgated pursuant to § 26-408(j)(2). In this case the applications are remitted to DHCR for hearing to determine good faith intention of museum to use apartments and not to rent or sell. Matter of Whitney Museum of American Art, 139 AD2d 444 [1988].

¶ 7. Tenant, a 20-year occupant of the leased premises when administrative proceedings to evict for landlord's personal use were commenced. Tenant claimed protection of Chap. 234/1984 amending § 26-408(b) exempting him from eviction. Landlords contended their rights were frustrated by tenant's dilatory tactics and DHCR three month delay during which time tenant obtained 20-year benchmark. Delay was not ruled to have prejudiced landlords. Matter of Jahn v. DHCR, 140 AD2d 193 [1988].

¶ 8. Section 26-408 of the administrative code is constitutional and does not violate provisions of the United States or New York State constitutions. Court disallows plaintiff's contentions that she has a constitutional right to "go out of business", a physical and regulatory taking of the landlord's private property without just compensation and that a form of involuntary servitude has occurred. Sobel v. Higgins, 151 Misc.2d 876, 573 N.Y.S.2d 1000 (Sup.Ct. New York Co. 1991), aff'd 188 A.D.2d 286, 590 N.Y.S.2d 883 (1st Dept. 1992).

¶ 9. The factors which must be met by a landlord in order to demolish and construct new housing, require in § 26-408(b)(5) that the landlord prove that there is no reasonable possibility that it can earn an 8 1/2% net annual return on the assessed value of the property, are valid and constitutional. Kolikow 78/79 Co. v. State, 174 AD2d 7, 577 N.Y.S.2d 624, 577 N.Y.S.2d 624, appeal dismissed 79 N.Y.2d 1040, 584 N.Y.S.2d 448 (1st Dept. 1992).

¶ 10. Protection of long-term tenants in rent-regulated dwellings, §26-408(b)(1), are a legitimate State interest and do not constitute an unconstitutional taking of private property. Owners are not deprived of the economically viable use of their properties. Dawson v. Higgins, 154 Misc.2d 811, 588 N.Y.S.2d 93 (Sup.Ct. New York Co. 1992), aff'd 197 A.D.2d 127, 610 N.Y.S.2d 200 (1st Dept. 1994).

¶ 11. Administrative Code §26-408(b) does not mandate owners of rent-controlled units to obtain a certificate of eviction in succession-type cases. Disputes over succession are not vested exclusively with DHCR, rather, courts have exercised concurrent jurisdiction in these cases. Bromer v. Rosensweig, 166 Misc. 2d 201 [1996].

¶ 12. In a dispute involving succession rights, administrative proceedings before the New York State Division of Housing and Community Renewal are not an exclusive remedy, and courts exercise concurrent jurisdiction in such cases. Cox v. J.D. Associates, 217 A.D.2d 179, 637 N.Y.S.2d 27 (App.Div. 1st Dept. 1995). Thus, after the death of a rent controlled tenant, the landlord can commence a summary holdover eviction proceeding against the surviving occupant of the apartment, and the occupant can assert succession rights as a defense to the holdover proceeding. Bromer v. Rosenweig, 166 Misc.2d 201, 634 N.Y.S.2d 43 (App.Div. 1st Dept. 1995).

¶ 13. The constitutionality of the statutory provision protecting tenants of 20 years or more from owner occupancy eviction was upheld. The court rejected the landlords' claims that the law constituted a physical and regulatory taking of property, a violation of due process and a violation of the prohibition against involuntary servitude. The statutory provision was within the government's police powers. The landlords had purchased the property knowing that it was occupied by rent controlled tenants and that its use was regulated. The landlords need only sell the building to escape the minimal restrictions placed on them by the challenged provisions. Dawson v. Higgins, 197 A.D.2d 127, 610 N.Y.S.2d 200 (1st Dept. 1994).

¶ 14. A real estate industry organization's challenge to the administrative agency's promulgation of family succession regulations proved to be unsuccessful. The court held that the regulations did not constitute a physical

occupancy or regulatory taking. Rent Stabilization Association v. Higgins, 83 N.Y.2d 156, 608 N.Y.S.2d 930 (1993).

¶ 15. The State Division of Housing and Community Renewal has exclusive jurisdiction over the landlord's application for permission to demolish a building occupied by rent controlled tenants. Sohn v. Calderon, 78 N.Y.2d 755, 579 N.Y.S.2d 940 (1991).

¶ 16. The court upheld the constitutionality of that portion of the law which protects from eviction those tenants who have resided in the building for 20 years or more. Since the landlord has not been deprived of the economically viable use of the property, the statute does not constitute a taking of property without due process of law. Sourian v. Higgins, 170 A.D.2d 258, 566 N.Y.S.2d 244 (1st Dept. 1991).

¶ 17. A lease provision permitting assignments and subleases is not projected into a statutory tenancy. Hence, a rent controlled tenant cannot assign or sublease. Brooks v. Kenton Associates, 169 A.D.2d 466, 564 N.Y.S.2d 343 (1st Dept. 1991).

¶ 18. An out-of-court agreement to surrender possession of a rent controlled apartment was held to be unenforceable as an impermissible waiver of the protection of the rent control laws. Grasso v. Matarazzo, N.Y.L.J., Apr. 8, 1998, page 32, col. 3 (Civ.Ct. Kings Co.).

¶ 19. A private agreement for surrender of a rent controlled apartment was held unenforceable as a matter of public policy, even though it was supported by consideration including the landlord's forgiveness of eight months of rent arrears. Merwest Realty Corp. v. Prager, 173 Misc.2d 868, 662 N.Y.S.2d 445 (Civ.Ct. New York Co. 1997), aff'd 177 Misc.2d 956, 679 N.Y.S.2d 519 (App.Term 1st Dept. 1998).

¶ 20. So long as there is no oppressive conduct or overreaching, a court will enforce a contract between a landlord and tenant under which the tenant agrees to vacate a rent controlled apartment in exchange for a sum of money ($10,000 in this case). Merwest Realty Corp. v. Prager, 264 A.D.2d 313, 694 N.Y.S.2d 38 (1st Dept. 1999).

¶ 21. Rent controlled tenants who have resided in their apartments for more than 20 years are protected from owner occupancy eviction proceedings brought by landlords. In one case, a tenant rented one apartment and then rented a second apartment to meet the needs of a growing family. Many years later, the owner sought to recover the second apartment for his own use. The tenant had been in the first apartment for more than 20 years, but in the second apartment for less than 20 years. The court held that where, as here, the tenant had acquired the second apartment with the knowledge and acquiescence of the landlord, and had been using both apartments as a bona fide residence, the 20-year rule protected him against eviction from the second apartment. Brioschi v. Armstrong, N.Y.L.J., July 12, 2000, page 28, col. 3 (Civ.Ct. New York Co.).

¶ 22. In one case, a wife had an apartment which was under rent stabilization, and her husband had an apartment which was under rent control. The court found that even though the apartments were non-contiguous, they had been effectively used as one apartment. The landlord attempted to acquire the rent stabilized apartment for his own use under the owner occupancy rules. However, the court held that since the rent controlled husband was protected from eviction because he had resided at the premises for 20 years or more, the landlord could not acquire either the rent controlled or rent stabilized apartment. This is true even though the landlord might otherwise have been eligible to recover the rent stabilized apartment had it not been combined with the rent controlled apartment. Derdiarian v. Lehmann, N.Y.L.J., Aug. 15, 2001, page 18, col. 4 (Civ.Ct. New York Co.).

¶ 23. Where the subject premises are a cooperative, it is the income of the rental building as a whole, rather than the income of the shareholder of an occupied rent stabilized apartment, that will determine whether a hardship increase is permissible. Hertz Co. R.E., Inc. v. DHCR, N.Y.L.J., Oct. 31, 2001, page 18, col. 4 (Sup.Ct. New York Co.).

¶ 24. DHCR acted reasonably in deciding a hardship application by using the building's rate of return in the year in which the application was filed. Thus, DHCR did not have to recalculate the rate of return when one of the tenants

died shortly after the agency's decision granting the application. Rizzo v. DHCR, 16 A.D.3d 72, 789 N.Y.S.2d 139 (1st Dept. 2005).

¶ 25. A tenant who seeks restoration of the right to possession based on the rent control laws (Sec. 26-408) may file a notice of pendency against the subject property. Lawlor v. 543 Second Avenue LLC, 49 AD3d 449, 854 N.Y.S.2d 125 (1st Dept. 2008).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-409

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-409 Investigation; records; reports.

a. The city rent agency is authorized to make such studies and investigations, to conduct such hearings, and to obtain such information as it deems necessary or proper in prescribing any regulation or order pursuant to this chapter or in administering and enforcing this chapter and the regulations and orders thereunder or the state rent act and the regulations and orders thereunder.

b. The city rent agency is further authorized, by regulation or order, to require any person who rents or offers for rent or acts as broker or agent for the rental of any housing accommodations to furnish any such information under oath or affirmation, or otherwise, to make and keep records and other documents, and to make reports, including, but not limited to, reports with respect to decontrolled or exempt housing accommodations, and the city rent agency may require any such person to permit the inspection and copying of records and other documents and the inspection of housing accommodations. Any officer or agent designated by the city rent agency for such purposes may administer oaths and affirmations and may, whenever necessary, by subpoena, require any such person to appear and testify or to appear and produce documents, or both, at any designated place.

c. For the purpose of obtaining any information under this section, the city rent agency may by subpoena require any other person to appear and testify or to appear and produce documents, or both, at any designated place.

d. The production of a person's documents at any place other than his or her place of business shall not be required under this section in any case in which, prior to the return date specified in the subpoena issued with respect thereto, such person either has furnished the city rent agency with a copy of such documents certified by such person under oath to be a true and correct copy, or has entered into a stipulation with the city rent agency as to the information

contained in such documents.

e. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this section, the supreme court in or for any judicial district in which such person is found or resides or transacts business, upon application by the city rent agency, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The provisions of this subdivision e shall be in addition to the provisions of paragraph (a) of subdivision nine of section one of the state enabling act and subdivision a of section 26-412 of this chapter.

f. Witnesses subpoenaed under this section shall be paid the same fee and mileage as are paid witnesses pursuant to the civil practice law and rules.

g. Upon any such investigation or hearing, the city rent agency, or an officer duly designated by the city rent agency to conduct such investigation or hearing, may confer immunity in accordance with the provisions of the criminal procedure law.

h. The city rent agency shall not publish or disclose any information obtained under this chapter that the city rent agency deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the city rent agency determines that the withholding thereof is contrary to the public interest.

i. Any person subpoenaed under this section shall have the right to make a record of his or her testimony and to be represented by counsel.

j. Without limiting any power granted by this section or any other provision of law, the city rent agency may by regulation require the owner of a building or property containing both housing accommodations subject to this chapter and housing accommodations subject to chapter four of this title to execute and file registration statements with respect to the housing accommodations subject to this chapter along with those filed pursuant to such chapter four. Notwithstanding any other provisions of law, such agency may promulgate regulations, and take other necessary or appropriate actions, pursuant to this subdivision prior to April first, nineteen hundred eighty-four, to take effect on or after such date.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-7.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1535

(formerly § Y41-7.0)

Sub e amended chap 100/1963 § 1535

Sub j added chap 102/1984 § 8

CASE NOTES FROM FORMER SECTION

¶ 1. The provisions of this section that the city rent agency shall not publish or disclose information which it deems confidential does not give the agency absolute discretion, but does authorize it to prohibit disclosure where there

is a rational basis for its determination. Though petitioner's attorney was permitted to inspect reports made by agency attorneys he did not have an absolute right to demand certification of such papers. Matter of Bernkrant, 40 Misc 2d 157, 242 NYS2d 753 [1963], aff'd, 246 NYS2d 170 [1964].

¶ 2. A tenant, whose rent was reduced for failure of landlord to properly paint his apartment, was not entitled to deny access to his apartment to landlord so as to exclude painting service and thereby retain the lower rent. Matter of Lonsdale, 40 Misc 2d 120, 242 NYS2d 880 [1963].

¶ 3. Application to compel the Rent Administration to provide petitioner with certified copies of two reports of the Administration's attorneys in connection with a proceeding for a certificate of eviction, was denied, as petitioner had no right to demand certification of papers which the agency was vested with discretion to deem confidential. Moreover, petitioner's attorney had been accorded the privilege of inspecting the entire file of the agency, including such reports. Bernkrant v. City Rent & Rehab. Adm'n., 40 Misc 2d 157, 242 NYS2d 753, aff'd, 246 NYS2d 170 [1964].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-410

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-410 Procedure.

a. After the issuance of any regulation or order by the city rent agency, any person subject to any provision of such regulation or order may, in accordance with regulations to be prescribed by such agency, file a protest against such regulation or order specifically setting forth his or her objections to any such provisions and affidavits or other written evidence in support of such objections. Statements in support of any such regulation or order may be received and incorporated in the record of the proceedings at such times and in accordance with such regulations as may be prescribed by such agency.

Within a reasonable time after the filing of any protest under this section, such agency shall either grant or deny such protest in whole or in part, notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith. In the event that such agency denies any such protest in whole or in part, it shall inform the protestant of the grounds upon which such decision is based, and of any economic data and other facts of which it has taken official notice.

b. In the administration of this chapter, the city rent agency may take official notice of economic data and other facts, including facts found by it as a result of action taken under section 26-405 of this chapter.

c. Any proceedings under this section may be limited by the city rent agency to the filing of affidavits, or other written evidence, and the filing of briefs, except that no multiple-tenant initiated proceeding for the reduction of rents in a building may be determined without a hearing.

d. Any protest filed under this section shall be granted or denied by the city rent agency, or granted in part and

the remainder of it denied, within a reasonable time after it is filed. If such agency does not act finally within a period of ninety days after the protest is filed, the protest shall be deemed to be denied. However, such agency may grant one extension not to exceed thirty days with the consent of the party filing such protest; any further extension may only be granted with the consent of all parties to the protest. No proceeding may be brought pursuant to article seventy-eight of the civil practice law and rules to challenge any order or determination which is subject to such protest unless such review has been sought and either (1) a determination thereon has been made or (2) the ninety-day period provided for determination of the protest (or any extension thereof) has expired. If such agency does not act finally within a period of ninety days after the entry of an order of remand to such agency by the court in a proceeding instituted pursuant to subdivision eight of section one of the state enabling act or section 26-411 of this chapter, the order previously made by such agency shall be deemed reaffirmed. However, such agency may grant one extension not to exceed thirty days with the consent of the petitioner; any further extension may only be granted with the consent of all parties to the petition.

e. The city rent agency shall compile and make available for public inspection at reasonable hours at its principal office and at each appropriate local office a copy of each decision rendered by it upon granting, or denying, in whole or in part, any protests filed under this section and shall have available at each appropriate local office a register of properties concerning which a vacate order was issued by a city department having jurisdiction or proceedings have been brought to determine whether any housing accommodations therein became vacant as a result of conduct proscribed by subdivision d of section 26-412 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-8.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1536

(formerly § Y41-8.0)

Subs b, d amended chap 100/1963 § 1536

Sub e amended LL 67/1963 § 7

Sub c amended LL 30/1970 § 31

Sub d amended chap 102/1984 § 9

CASE NOTES FROM FORMER SECTION

¶ 1. While a protest may be made in a representative capacity, the names and addresses of all parties affected must be stated. In re Jambaru Realty Corp., 148 (98) N.Y.L.J. (11-21-62) 14, Col. 3 F.

¶ 2. A landlord could not restrain the Rent Administrator from holding proceedings to modify or revoke a rent increase allegedly granted because of the landlord's fraudulent acts. The landlord was required to exhaust his administrative remedies under Y41-8.0. St. James Associates v. Gabel, 148 (68) N.Y.L.J. (10-5-62) 14, Col. 7 F.

¶ 3. After an eviction proceeding before the Rent Administrator had been commenced and before a certificate of eviction was issued, the tenants commenced an Article 78 proceeding to challenge the relocation proceedings. Proceeding dismissed. A comprehensive and exclusive system for review of the validity, propriety and reasonableness of any final order of the Rent and Rehabilitation Director is provided in the City Rent and Rehabilitation Law. Only after the City Rent Administrator's order on a protest may the aggrieved party resort to judicial review by an Article 78

proceeding. Matter of Rigg v. Gabel, 37 Misc 2d 1069, 235 NYS2d 49 [1963], aff'd 18 App. Div. 2d 796, 236 NYS2d 1022 [1963].

¶ 4. The issuance of a final order one day after the expiration of the time specified in the order of remand of the court was of no serious consequence, since a time limitation, in any event, for an official act to be performed by a public body will be considered as directory only and not a matter of jurisdiction or a statute of limitations. In re 300 West 154th St. Realty Corp. (Gabel), 149 (119) N.Y.L.J. (6-20-63) 12, Col. 2 M.

¶ 5. Proceeding under which Commissioner of Rent and Housing Maintenance denied petitioner's protest of an order of the district rent director which decontrolled a certain apartment was not rendered improper by fact that no transcript or recording was made by the hearing officer since an evidentiary or quasi-judicial hearing is not rquired in this matter. Lamp v. Joy, 57 App. Div. 2d 547 [1977].

¶ 6. A protest postmarked on the thirty-fourth day after receipt of order was properly dismissed as being filed one day too late under the Rent and Eviction Regulations promulgated under this section and court had no authority to extend protest period. Kawary v. Joy, 104 Misc 2d 690 [1980].

CASE NOTES

¶ 1. Petition for administrative review (PAR) in rent overcharge complaint should be acted on within 90 days of its finding, § 26-410. Two years and four months is unreasonable delay. There is absolute obligation to issue determination. However, complaint should not be vacated because of delay. Gianelli v. DHCR, 142 Misc 2d 285 [1989].

¶ 2. The fact that the rent agency fails to decide a Petition for Administrative Review within the statutory ninety day period will not divest the agency of jurisdiction to hear the case. However, where an aggrieved party brings an Article 78 proceeding after the expiration of the ninety day period, the court can issue a mandamus order directing the agency to decide the case within a time period set by the court. Matter of 140 West 57th Street Corp. v. New York State Division of Housing and Community Renewal, 130 A.D.2d 237, 517 N.Y.S.2d 720 (1st Dept. 1987).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-411

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-411 Judicial review.

a. (1) Any person who is aggrieved by the final determination of the city rent agency in an administrative proceeding protesting a regulation or order of such agency may, in accordance with article seventy-eight of the civil practice law and rules, within sixty days after such determination, commence a proceeding in the supreme court. The petition shall specify his or her objections and pray that the regulation or order protested be enjoined or set aside in whole or in part. Such proceeding may at the option of the petitioner be instituted in the county where the city rent agency has its principal office or where the property is located. The city rent agency shall file with such court the original or a transcript of such portions of the proceedings in connection with its final determination as are material under the petition. Such return shall include a statement setting forth, so far as practicable, the economic data and other facts of which the city rent agency has taken official notice. Upon the filing of such petition the court shall have jurisdiction to set aside the regulation or order protested, in whole or in part, to dismiss the petition, or to remit the proceeding to the city rent agency, provided, however, that the regulation or order may be modified or rescinded by the city rent agency at any time notwithstanding the pendency of such proceeding for review.

(2) No objection to such regulation or order, and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been presented to the city rent agency by the petitioner in the proceedings resulting in the determination or unless such evidence shall be contained in the return. If application is made to the court by either party for leave to introduce additional evidence which was either offered and not admitted or which could not reasonably have been offered or included in such proceedings before the city rent agency, and the court determines that such evidence should be admitted, the court shall order the evidence to be presented to the city rent agency. The city rent agency shall promptly receive the same, and such other evidence as the city rent agency deems

necessary or proper, and thereupon the city rent agency shall file with the court the original or a transcript thereof and any modification made in such regulation or order as a result thereof; except that on request by the city rent agency, any such evidence shall be presented directly to the court. Upon final determination of the proceeding before the court, the original record, if filed by the city rent agency with the court, shall be returned to the city rent agency.

b. No regulation or order of the city rent agency shall be enjoined or set aside, in whole or in part, unless the petitioner shall establish to the satisfaction of the court that the regulation or order is not in accordance with law, or is arbitrary or capricious. The effectiveness of an order of the court enjoining or setting aside, in whole or in part, any such regulation or order shall be postponed until the expiration of thirty days from the entry thereof. The jurisdiction of the supreme court shall be exclusive and its order dismissing the petition or enjoining or setting aside such regulation or order, in whole or in part, shall be final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided in the civil practice law and rules for appeals from a final order in a special proceeding. Notwithstanding any provision of paragraph one of subdivision (b) of section five thousand seven hundred one of the civil practice law and rules to the contrary, any order of the court remitting the proceeding to the city rent agency may, at the election of the city rent agency, be subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided in the civil practice law and rules for appeals from a final order in a special proceeding. All such proceedings shall be heard and determined by the court and by any appellate court as expeditiously as possible and with lawful precedence over other matters. All such proceedings for review shall be heard on the petition, manuscript and other papers, and on appeal shall be heard on the record, without requirement of printing.

c. Within thirty days after arraignment, or such additional time as the court may allow for good cause shown, in any criminal proceeding, and within five days after judgment in any civil or criminal proceeding, brought pursuant to subdivision ten of section one of the state enabling act or section 26-413 of this chapter involving alleged violation of any provision of any regulation or order of the city rent agency, the defendant may apply to the court in which the proceeding is pending for leave to file in the supreme court a petition setting forth objections to the validity of any provision which the defendant is alleged to have violated or conspired to violate. The court in which the proceeding is pending shall grant such leave with respect to any objection which it finds is made in good faith and with respect to which it finds there is reasonable and substantial excuse for the defendant's failure to present such objection in an administrative proceeding before the city rent agency. Upon the filing of a petition pursuant to and within thirty days from the granting of such leave, the supreme court shall have jurisdiction to enjoin or set aside in whole or in part the provision of the regulation or order complained of or to dismiss the petition. The court may authorize the introduction of evidence, either to the city rent agency or directly to the court, in accordance with subdivision a of this section. The provisions of subdivision b of this section shall be applicable with respect to any proceedings instituted in accordance with this subdivision.

d. In any proceeding brought pursuant to subdivision ten of section one of the state enabling act or section 26-413 of this chapter involving an alleged violation of any provision of any such regulation or order, the court shall stay the proceeding:

(1) During the period within which a petition may be filed in the supreme court pursuant to leave granted under subdivision c of this section with respect to such provision;

(2) During the pendency of any protest properly filed under section 26-410 of this chapter prior to the institution of the proceeding under subdivision ten of section one of the state enabling act or section 26-413 of this chapter, setting forth objections to the validity of such provision which the court finds to have been made in good faith; and

(3) During the pendency of any judicial proceeding instituted by the defendant under this section with respect to such protest or instituted by the defendant under subdivision c of this section with respect to such provision, and until the expiration of the time allowed in this section for the taking of further proceedings with respect thereto.

e. Notwithstanding the provisions of subdivision d of this section, stays shall be granted thereunder in civil proceedings only after judgment and upon application made within five days after judgment. Notwithstanding the provisions of subdivision d of this section, in the case of a proceeding under paragraph (a) of subdivision ten of section one of the state enabling act or subdivision a of section 26-413 of this chapter, the court granting a stay under subdivision d of this section shall issue a temporary injunction or restraining order enjoining or restraining, during the period of the stay, violations by the defendant of any provision of the regulation or order involved in the proceeding. If any provision of a regulation or order is determined to be invalid by judgment of the supreme court which has become effective in accordance with subdivision b of this section, any proceeding pending in any court shall be dismissed, and any judgment in such proceeding vacated, to the extent that such proceeding or judgment is based upon violation of such provision. Except as provided in subdivisions c and d of this section and as heretofore provided in this subdivision e, the pendency of any protest under section 26-410 of this chapter before the city rent agency or judicial proceeding under this section, shall not be grounds for staying any proceeding brought pursuant to subdivision ten of section one of the state enabling act or section 26-413 of this chapter; nor, except as provided in this subdivision e, shall any retroactive effect be given to any judgment setting aside a provision of a regulation or order.

f. The method prescribed herein for the judicial review of a regulation or order of the city rent agency shall be exclusive.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-9.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1537

(formerly § Y41-9.0)

Subs c, d, e amended chap 100/1963 § 1537

Sub a par 1 amended LL 30/1970 § 23

Sub b amended LL 30/1970 § 24

Sub a par 1 amended chap 102/1984 § 10

CASE NOTES FROM FORMER SECTION

¶ 1. An order of the Rent and Rehabilitation Administrator denying petitioner's protest of termination of tenancy and affirming an order of the Local Rent Administrator was a final order within the meaning of statutory provisions requiring that review proceedings must be initiated within 30 days from the date of a final order. Matter of Resenblatt, 38 Misc 2d 253, 235 NYS2d 280 [1963].

¶ 2. Subdivision E of Section 54 of the Rent, Eviction and Rehabilitation Regulations is a reasonable exercise of the power to require a landlord to provide for the relocation or relocation expenses of tenants as to whom Certificates of Eviction are about to be granted. Though the tenant may receive only the stipend payments scheduled in the Regulation the Regulation is a practical solution of a difficult problem. Matter of Goldsmith v. Gabel, 42 Misc. 2d 732, 248 NYS2d 807 [1964], aff'd, 21 App. Div. 2d 782, 252 NYS2d 274 [1964].

¶ 3. Petition in Article 78 proceeding to review a final determination of the City Rent Administrator must be filed in the Supreme Court within 30 days of the determination and hence where determination was made and served on

petitioner on October 16, 1962 petition filed on November 20, 1962 could not be entertained. The thirtieth day from October 16, 1962, was November 18, 1962 but as this was a Sunday the expiration date was November 19, 1962. Matter of Magid v. Gabel, 25 App. Div. 2d 649, 268 NYS2d 551 [1966].

¶ 4. Cost of transcription of tapes in article 78 proceeding hearings expended by respondent Rent Commission was a taxable item of disbursement and properly part of the bill of costs. Equity Investments v. Joy, 58 AD2d 39 [1977].

¶ 5. Provision of this section which exempts "any order of the court remitting the proceeding to the city rent agency" from the rule against appeal of an intermediate order and which allows that agency, at its election, to review by appeal a determination so made was not applicable where Supreme Court had directed respondent to process petitioner's application for a comparative hardship increase, to the extent of setting the matter down for a hearing to determine whether respondent wilfully and deliberately delayed processing the application. Harper Management v. Conciliation and Appeals Board, 70 AD2d 848 NYS2d 11 [1979].

CASE NOTES

¶ 1. DHCR ordered rent reduction based upon finding of failure to maintain services. Court erred in ordering hearing de novo to determine if DHCR's determination was arbitrary and capricious. § 26-411(b) precludes evidentiary hearing and limits scope of judicial review to questions of law. If, as contended, the conditions were rectified matter is properly remanded to DHCR for further action. Aguayo v. DHCR, 150 AD2d 565, 541 N.Y.S.2d 133 (2nd Dept. 1989).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-412

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-412 Prohibitions.

a. It shall be unlawful, regardless of any contract, lease or other obligation heretofore or hereafter entered into, for any person to demand or receive any rent for any housing accommodations in excess of the applicable maximum rent established therefor by the city rent agency or otherwise to do or omit to do any act, in violation of any regulation, order or requirement of the city rent agency under the state enabling act or under this chapter, or to offer, solicit, attempt or agree to do any of the foregoing.

b. It shall be unlawful for any person to remove or attempt to remove from any housing accommodations the tenant or occupant thereof or to refuse to renew the lease or agreement for the use of said accommodations, because such tenant or occupant has taken, or proposes to take, action authorized or required by the state rent act or by this chapter or any provision of this code, the multiple dwelling law, or the health code of the city of New York, or any regulation, order or requirement thereunder.

c. It shall be unlawful for any officer or employee of the city rent agency or for any official adviser or consultant to the city rent agency to disclose, otherwise than in the course of official duty, any information obtained under this chapter, or to use any such information for personal benefit.

d. It shall be unlawful for any person, with intent to cause any tenant to vacate housing accommodations or to surrender or waive any rights of such tenant under this chapter or the regulations promulgated thereunder, to engage in any course of conduct including, but not limited to, interruption or discontinuance of essential services which interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of such tenant in his or her use or occupancy of the housing accommodations.

e. It shall be unlawful for any person to make any statement or entry false in any material respect in any document or report submitted in any proceeding before the city rent agency or required to be kept filed under this chapter or any regulation, order or requirement thereunder, or to wilfully omit or neglect to make any material statement or entry required to be made in any such document or report;

f. It shall be unlawful for a landlord or a successor in interest to use housing accommodations or the site on which same were located for any purposes other than that specified in the certificate of eviction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-10.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1538

(formerly § Y41-10.0)

Sub d amended LL 67/1963 § 6

Sub b amended LL 48/1967 § 1

Sub d amended LL 48/1967 § 2

Sub d repealed and added LL 30/1970 § 25

Subs e, f added LL 30/1970 § 26

CASE NOTES FROM FORMER SECTION

¶ 1. Application of provisions of the Rent, Eviction and Rehabilitation Regulations which makes decrease or discontinuance of services presumptive evidence of intent and conduct in violation of the prohibition against harassment of tenants after the landlord has shown an intent to cause a building or individual accommodation therein to become or remain vacant or has certified his intent to alter or demolish a structure not unconstitutional in a proceeding to impose a civil penalty for harassment. Sigety v. Leventhal, 42 NY2d 953 [1977].

¶ 2. Determination that landlord who failed to repair water leaks into certain apartment and to repair the damage caused thereby and who abused tenants and suggested that if it was inconvenient for a tenant the tenant should move was guilty of harassment was based on substantial evidence. Belnord Holding Corp. v. Joy, 52 NY2d 945 [1981].

CASE NOTES

¶ 1. Plaintiff landlord seeks to demolish his building, to evict his rent-controlled tenants and not offer renewal leases to his rent-stabilized tenants. Supreme Court has no right to direct DHPD to issue "no harassment" certificates based on the court's own findings or grant an injunction to enjoin DHCR to inquire into tenant harassment charges. DHCR has responsibility to adjudicate claimed harassment violations, Ad Cd §26-413(b)(2), 26-412(d), 26-516(c). Sohn v. Calderon, 78 N.Y.2d 755, 579 N.Y.S.2d 940 (1991).

¶ 2. A tenant sued a landlord for harassment, claiming that the landlord had unlawfully attempted to obtain information regarding the rent charged to a roommate. The court, however, dismissed the claim. An allegation that landlord engaged in a deceptive and misleading practice by trying to obtain information from plaintiff to which he was

not entitled by law, does not state a cause of action for harassment, which requires a showing that there was an intent to cause the tenant to vacate the premises or to surrender his or her rights by engaging in conduct that disturbed the tenant in the use of the apartment. Martinez v. Classic Realty, N.Y.L.J. 5-21-03, page 18, col. 1 (Sup.Ct. New York Co.).

¶ 3. In contrast to the rent stabilization law, the rent control law does not contain a prohibition against charging roommates more than their proportional share of the legal regulated rent. However, the rent control law does permit the eviction of a tenant who charges a roommate an amount greater than the maximum rent payable for the apartment. 270 Riverside Drive v. Braun, N.Y.L.J., Mar. 2, 2003, page 20, col. 1 (Civ.Ct. New York Co.)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-413

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-413 Enforcement and penalties.

a. Any person who wilfully violates any provision of section 26-412 of this chapter shall be guilty of and punishable for a crime as specified in subdivision ten of section one of the state enabling act, namely such persons shall be subject to a fine of not more than five thousand dollars, or to imprisonment for not more than two years in the case of a violation of subdivision c of section 26-412 of this chapter and for not more than one year in all other cases, or to both such fine and imprisonment. The city rent agency may certify such facts, which in its opinion constitute such violation, to the district attorney having jurisdiction thereof.

b. (1) The city rent agency may, whenever in its judgment any person has engaged in or is about to engage in acts or practices which constitute a violation of any provision of section 26-412 of this chapter, apply to the supreme court for an order (a) enjoining such acts or practices, (b) enforcing compliance with such provision of said section or with an order issued by the city rent agency, or (c) directing the landlord to correct such violation of such provision; and upon sufficient showing, the supreme court may issue a temporary or permanent injunction, restraining order or other order, all of which shall be granted without bond. Jurisdiction shall not be deemed lacking in the supreme court because a defense is based upon an order of an inferior court.

(2) The city rent agency may, whenever in its judgment any person has engaged in acts or practices which constitute a violation of any provision of section 26-412 of this chapter:

(a)* Impose38 by administrative order after hearing, a civil penalty for any violation of said section and bring an action to recover same in any court of competent jurisdiction. Such penalty in the case of a violation of subdivision d of such section shall be in the amount of not less than one thousand dollars nor more than five thousand dollars for each

offense or for a violation consisting of conduct directed at the tenants of more than one housing accommodation; and in the case of any other violation of such section in the amount of one hundred dollars for the first such offense and five hundred dollars for each subsequent offense. Such order by the city rent agency shall be deemed a final determination for the purposes of judicial review as provided in section 26-411 of this chapter. Such action shall be brought on behalf of the city and any amount recovered shall be paid into the city treasury. Such right of action may be released, compromised or adjusted by the city rent agency at any item subsequent to the issuance of such administrative order.

(a)** Impose39 by administrative order after hearing, a civil penalty for any violation of said section and bring an action to recover same in any court of competent jurisdiction. Such penalty in the case of a violation of subdivision d of such section shall be in the amount of five hundred dollars for a first such offense and one thousand dollars for each subsequent offense or for a violation consisting of conduct directed at the tenants of more than one housing accommodation; and in the case of any other violation of such section in the amount of one hundred dollars for the first such offense and five hundred dollars for each subsequent offense. Such order by the city rent agency shall be deemed a final determination for the purposes of judicial review as provided in section 26-411 of this chapter. Such action shall be brought on behalf of the city and any amount recovered shall be paid into the city treasury. Such right of action may be released, compromised or adjusted by the city rent agency at any item subsequent to the issuance of such administrative order.

(b) Commence an action to recover damages, as provided for in paragraph two of subdivision d of this section in the event that (i) the tenant has not previously commenced such an action as therein provided and (ii) more than six months have elapsed since the occurrence of the violation or issuance of the order. An action instituted by the city rent agency shall constitute a bar to an action by the person aggrieved. The city rent agency shall pay over one-half of the sum recovered in such action to the person aggrieved and one-half to the city treasury, exclusive of costs and disbursements.

(3) (a) Subject to the provisions of subparagraph (b) of this paragraph, make a finding of harassment whenever it determines the existence of a violation of subdivision d of section 26-412 of this chapter in which event the city rent agency may (i) dismiss any pending application for a certificate of eviction and grant any subsequent application for such certificate only upon such terms and conditions as it deems necessary to prevent the circumvention or evasion of provisions of this chapter; (ii) determine that such housing accommodations or any replacement or subdivision thereof (whether or not by demolition, alteration or substantial rehabilitation) shall constitute housing accommodations subject to control under the provisions of this chapter, notwithstanding any definition of that term to the contrary; and (iii) to refuse to credit any adjustments increasing rent mandated by section 26-405 of this chapter and dismiss any applications for an adjustment pursuant to said section for such time and under such terms and conditions as the city rent agency deems necessary to prevent circumvention or evasion of the provisions of this chapter.

(b) No proceeding to determine whether housing accommodations have become vacant as a result of harassment may be commenced later than thirty days after the entire structure shall have been vacated, unless the landlord failed to certify his or her intent to alter or demolish the premises as provided by subdivision c of section 26-408 of this chapter. No proceeding shall be maintained for acts performed in good faith and in a reasonable manner for the purposes of operating, maintaining or repairing any building or part thereof. A finding of harassment shall be attached to and noted upon the registration of the housing accommodations affected by such findings, and a copy thereof shall be filed and docketed in the manner of a notice of mechanic's lien affecting the property. The provisions of this paragraph shall bind all persons or parties who succeed to the landlord's interest in said housing accommodations.

(4) Revoke any order or determination based upon any statement or entry false in any material respect in any document or report submitted in any proceeding before the city rent agency or required to be kept or filed under this chapter or any requirements thereunder.

c. (1) Any court shall advance on the docket or otherwise expedite the disposition of any action or proceeding brought before it pursuant to the provisions of subdivision b of this section.

(2) The provisions of subdivision b of this section are cumulative. The enforcement of one provision thereof shall not constitute a bar to the enforcement by action, proceeding or by making a finding or determination pursuant to other provisions of said subdivision.

(3) The city rent agency may direct that a refund payment to the tenant for rent collected in violation of subdivision a of section 26-412 include interest from the date of each excessive payment of rent. Where the city rent agency has revoked an order or determination premised on a false statement or entry, it may withhold issuance of an order granting increase in maximum rent for such housing accommodations until the landlord has complied with the refund directive, if any, provided for in such order of revocation.

d. (1) Where after the city rent agency has granted a certificate of eviction authorizing the landlord to pursue his or her remedies pursuant to law to acquire possession and a tenant voluntarily removes from a housing accommodation or has been removed therefrom by action or proceeding to evict from or recover possession of a housing accommodation upon the ground that the landlord seeks in good faith to recover possession of such accommodation:

(a) For his or her immediate and personal use, or for the immediate and personal use by a member or members of his or her immediate family, and such landlord or members of his or her immediate family shall fail to occupy such accommodation within thirty days after the tenant vacates; or

(b) For the immediate purpose of withdrawing such housing accommodation from the rental market, and such landlord shall lease or sell the housing accommodation or the space previously occupied thereby, or permit use thereof in a manner other than contemplated in such eviction certificate within a period of one year after such removal of the tenant; or

(c) For the immediate purpose of altering or remodeling such housing accommodation, and the landlord (who required possession for the purpose of effecting such alteration or remodeling) shall fail to start the work of alteration or remodeling of such housing accommodation within ninety days after the removal of the last tenant whose removal is necessary to enable the landlord to effect such alteration or remodeling of such accommodation, or if after having commenced such work shall fail or neglect to prosecute the work with reasonable diligence; or

(d) For the immediate purpose of demolishing such housing accommodations and constructing a new building in accordance with approved plans, or reasonable amendment thereof, and the landlord has failed to complete the demolition within six months after the removal of the last tenant or, having demolished the premises, has failed or neglected to proceed with the new construction within ninety days after the completion of such demolition, or having commenced such construction work, has failed or neglected to prosecute such work with reasonable diligence; or

(e) For some purpose other than those specified above for which the removal of the tenant was sought and the landlord has failed to use the vacated premises for such purposes; such landlord shall, unless for good cause shown be liable to the tenant for three times the damages sustained on account of such removal plus reasonable attorney's fees and costs as determined by the court provided that the tenant commences such action within three years from the expiration of the applicable time period as set forth in this subdivision. The damages sustained by the tenant under this subdivision shall be the difference between the rent paid for the housing accommodation from which such tenant was evicted, and the rental value of a comparable housing accommodation on the open market. In addition to any other damage, the cost of removal of the tenant's property shall be a lawful measure of damages. The remedy herein provided shall be in addition to those provided for in subdivisions a and b of this section. Such acts and omissions on the part of a landlord after issuance of a certificate of eviction are hereby declared to be consistent with the purposes for which such certificate of eviction was issued.

(2) A tenant may bring an action against his or her landlord in any court of competent jurisdiction for a violation of subdivision a of section 26-412 of this chapter within: (a) two years from the date of occurrence of an overcharge, defined to mean the amount by which the consideration paid by a tenant to a landlord exceeds the applicable maximum

rent, or (b) within one year after the landlord fails to pay a refund as ordered by the city rent agency, such time to be calculated from thirty-three days after the date of the issuance of the order or when the order becomes final, whichever is later, or (c) in the case of an act proscribed by subdivision e of section 26-412 of this chapter, within two years after knowledge of such statement or omission and consequent violation has been made known to the city agency. The landlord shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (i) such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may determine or (ii) an amount not less than twenty-five dollars, provided, however, that such amount shall be the amount of the overcharge or overcharges or twenty-five dollars, whichever is greater, if the defendant proves that the violation of the regulation or order in question was neither wilful nor the result of failure to take practicable precautions against the occurrence of the violation.

(3) A tenant or occupant who is unlawfully removed by a landlord from any housing accommodation may, within two years from the date of occurrence, bring a civil action against the landlord by reason of such unlawful removal. In such action, the landlord shall be liable to the tenant for three times the damages sustained on account of such removal plus reasonable attorney's fees and costs as determined by the court. The damages sustained by the tenant under this paragraph shall be the difference between the rent paid for the housing accommodation from which such tenant was evicted and the rental value of a comparable housing accommodation on the open market. In addition to any other damage the cost of removal of the tenant's property shall be a lawful measure of damage.

e. No person (including, but not limited to any officer or employee of the city rent agency) shall be held liable for damages or penalties in any court, on any grounds for or in respect of anything done or omitted to be done in good faith pursuant to any provision of the state rent act or of this chapter, or any regulation, order, or requirement thereunder, notwithstanding that subsequently such provision, regulation, order or requirement may be modified, rescinded, or determined to be invalid. In any action or proceeding wherein a party relies for ground of relief or defense or raises issue or brings into question the construction or validity of any provision of this chapter or any regulation, order, or requirement thereunder, the court having jurisdiction of such action or proceeding may at any stage certify such fact to the city rent agency. The city rent agency may intervene in any such action or proceeding.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b par (2) subpar (a) amended chap 116/1997 § 28-a, eff. July 19, 1997 and expires and

deemed repealed after June 15, 2011 as per amendment by chap 82/2003 § 12.

DERIVATION

Formerly § Y51-11.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1539

(formerly § Y41-11.0)

Subs a, b amended chap 100/1963 § 1539

Sub b amended LL 49/1967 § 1

Subs g, h, i, j added LL 49/1967 § 2

Repealed and added LL 30/1970 § 27

CASE NOTES FROM FORMER SECTION

¶ 1. Provision for treble damages for unlawful eviction being penal in nature should not be applied retroactively to an eviction which occurred prior to its enactment. de Kosenko v. Brandt, 31 AD2d 612, 295, NYS2d 879 [1968].

¶ 2. Action for recovery for rent overcharges allegedly made in violation of the rent control law for rent overcharges received for 1972 was time barred by subdivision d par. 2 cl. a of this section where actions were commenced in February and April, 1975 but amendment of complaint to allege an action within one year after landlord fails to pay a refund as ordered under subdivision d par. 2 cl. b would not be precluded because an action was time barred under cl. a. Mejia v. Dorglad Realty Corp., 85 Misc 2d 192 [1976].

¶ 3. Imposition of $500 fine for harassment where commissioner believed institution of unsuccessful summary dispossess proceeding to be groundless was impermissible interference with right of landlord to apply to court for relief where this was not one of a series of repeated groundless eviction proceedings or a proceeding begun without intention to carry it through to judgment. Equity Investments v. Joy, 58 AD2d 539 [1977].

¶ 4. In action to recover rent overcharges together with treble damages based on landlord's failure to comply with a refund order as to excess rent collected during seven years of plaintiff's tenancy, plaintiff was not limited to overcharges and damages for a two year period preceding the date the action was commenced since landlord neither paid the refund nor instituted an Article 78 proceeding to review the order. Santon v. Rooney, 99 Misc 2d 687, 416 NYS2d 1020 [1979].

¶ 5. Petitioner is not entitled to treble damages under subd. d par. [2] or subd. c, par. [3] because they relate to violations of the NYC Rent and Rehabilitation Law, rather than the Rent Stabilization Law, which was violated herein, which does not provide for treble damages and interest even though they are available under § 12 Emergency Tenant Protection Act of 1974; § 12 subd. b leaves it up to the discretion of the Conciliation and Appeals Bd. whether and how to enforce the provisions of that law. Paul Chessin v. NYC Conciliation and Appeals Bd., 116 Misc. 2d 1003 [1982]; reversed 100 AD2d 297 [1984].

¶ 6. Successor landlords which do not improve the conditions which led to the imposition of sanctions under this section, subdivision (b)(3), are not entitled to a lifting of the sanctions. Matter of Meko Holding v. Joy, 107 AD2d 278 [1985].

CASE NOTES

¶ 1. Plaintiff landlord seeks to demolish his building, to evict his rent-controlled tenants and not offer renewal leases to his rent-stabilized tenants. Supreme Court has no right to direct DHPD to issue "no harassment" certificates based on the court's own findings or grant an injunction to enjoin DHCR to inquire into tenant harassment charges. DHCR has responsibility to adjudicate claimed harassment violations, Ad Cd §26-413(b)(2), 26-412(d), 26-516(c). Sohn v. Calderon, 78 N.Y.2d 755, 579 N.Y.S.2d 940 (1991).

¶ 2. A new owner of the premises, who took title with actual knowledge of the pendency before the agency of harassment charges against the prior owner, will not be able to escape liability for the imposition of a lien and civil penalties. 446 Realty Co. v. New York State Division of Housing and Community Renewal, 165 A.D.2d 778, 564 N.Y.S.2d 49 (1st Dept. 1990).

¶ 3. In one case, a tenant filed a rent overcharge complaint with DHCR and then brought a declaratory judgment action in Supreme Court seeking a determination of the lawful rent. The court held that while the administrative proceeding was stayed pending the determination of the declaratory judgment action, DHCR was not completely divested of jurisdiction over the matter. Thus, once the Supreme Court determined the legal rent, DHCR then had jurisdiction to issue an order directing the landlord to refund the overcharge. Christy v. Lynch, 259 A.D.2d 324, 686 N.Y.S.2d 431 (App. Div. 1st Dept. 1999).

¶ 4. A landlord served a notice of termination upon the tenant, stating that he (landlord) sought possession of the

apartment for the use of a family member. The tenant, in exchange for a sum of money, signed an agreement in which he surrendered possession of the apartment. Subsequently, however, the tenant discovered that the landlord had never installed a family member in the apartment. At that point, the tenant sued the landlord for common law fraud, and also claimed treble damages under Administrative Code § 26-413 by reason of the landlord's failure to make use of the apartment for a member of his family. The court sustained the cause of action for fraud, since at the time of the making of the agreement, the landlord allegedly had a present intent not to use the apartment for a member of his family. However, the court dismissed the claim for damages under Sec. 26-413; the treble damages provision takes effect only when the landlord actually obtains a certificate of eviction from DHCR and then fails to make personal or family use of the apartment. In other words, the treble damages provision does not apply where a tenant agrees to move and the landlord never obtains a certificate of eviction. Pomranz v. Tauber, 720 N.Y.S.2d 39 (App.Div. 1st Dept. 2001).

¶ 5. A court cannot impose treble damages in a rent overcharge case unless it makes a specific finding that the overcharge was willful. Haberman v. Hawkins, 275 A.D.2d 287, 712 N.Y.S.2d 861 (1st Dept. 2000).

¶ 6. Provisions permitting recovery of treble damages for a rent overcharge are authorized by a penal provision in the state enabling legislation, and clearly reflect the legislative intent that treble damages are to be imposed as a penalty. Cox v. Microsoft Corp., 290 A.D.2d 206, 737 N.Y.S.2d 1 (1st Dept. 2002).

FOOTNOTES

38

[Footnote 38]: ** Effective until June 15, 2011.

39

[Footnote 39]: ** Effective June 16, 2011.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-414

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-414 Decontrol on basis of vacancy rate.

Whenever the city rent agency shall find, after making such studies and investigations as it deems necessary for such purpose, or for processing an application supported by adequate proof filed by an interested party pursuant to regulation that the percentage of vacancies in all or any particular class of housing accommodations in the city, as such class is determined by the city rent agency, is five per centum or more, the controls imposed on rents and evictions by and pursuant to this chapter, with respect to the housing accommodations as to which such finding has been made, shall be forthwith scheduled for orderly decontrol, with due regard to preventing uncertainty, hardship and dislocation, by order of such agency; provided, however, that notwithstanding any provision of this section to the contrary, such agency shall not order the decontrol of any particular class of housing accommodations as to which it shall find that the percentage of vacancies is less than five per centum; provided, further, that no such order shall be made unless such agency shall hold a public hearing on such proposal at which interested persons are given a reasonable opportunity to be heard. Notice of such hearing shall be provided by publication thereof, on at least five days during the period of fifteen days next preceding the date of the commencement of such hearing, in the City Record and in at least two daily newspapers having general circulation in the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-12.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1540

(formerly § Y41-12.0)

Amended LL 60/1967 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. An apartment occupied by members of the owner's immediate family for a continuous period of 16 months became decontrolled and there was not necessity for showing that the owner's occupancy was intended to be permanent. And decontrol resulted, even though the owner occupied two apartments in the three apartment unit. In re Pagota, 148 (121) N.Y.L.J. (12-26-62) 13, Col. 8 T.

¶ 2. Where Rent Administration had not as yet made any determination of what constitutes "a particular class of a housing accommodation" within meaning of section, proceeding by property owner of buildings subject to rent control for an order directing the City Rent Administrator to make a finding that a vacancy rate of at least 5% exists in certain housing accommodations was premature and such determination was not made merely because the Rent Administration had engaged the U.S. Census Bureau to make a survey as to vacancies in the rent ranges involved. Application of Campo Corp., 49 Misc 2d 840, 268 NYS2d 474, aff'd, 26 App. Div. 2d 771, 272 NYS2d 701.

¶ 3. City Rent Administrator was directed to make determination as to whether a vacancy of 5% or more exists in housing accommodations for monthly rentals of between $200 and $224, between $250 and $299 and $300 or more since a survey made by the U.S. Census Bureau in February and March 1965, pursuant to a contract with the Rent Administration found the percentage of vacancies in the above rental ranges to be respectively 5.8 percent, 6.4 percent and 10.5 percent. In re Campo Corp. (City Rent & Rehabilitation Administration) 157 (30) N.Y.L.J. (2-14-67) 17, Col. 4 F.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-415

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 3 RENT CONTROL

§ 26-415 Surveys of need for rent control.

As provided in subdivision three of section one of the local emergency housing rent control act, the mayor shall cause to be made, and shall present to the council a report of the results of, a survey of the supply of housing accommodations within the city, the condition of such accommodations and the need for continuing the regulation and control of residential rents and evictions within the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § Y51-16.0 added LL 20/1962 § 1

Renumbered chap 100/1963 § 1544

(formerly § Y41-16.0)

Amended LL 50/1967 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-501

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-501 Findings and declaration of emergency.

The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons within the city of New York and will continue to exist after April first, nineteen hundred seventy-four; that such emergency necessitated the intervention of federal, state and local government in order to prevent speculative, unwarranted and abnormal increases in rents; that there continues to exist an acute shortage of dwellings which creates a special hardship to persons and families occupying rental housing; that the legislation enacted in nineteen hundred seventy-one by the state of New York, removing controls on housing accommodations as they become vacant, has resulted in sharp increases in rent levels in many instances; that the existing and proposed cuts in federal assistance to housing programs threaten a virtual end to the creation of new housing, thus prolonging the present emergency; that unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; that to prevent such perils to health, safety and welfare, preventive action by the council continues to be imperative; that such action is necessary in order to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health, safety and general welfare; that the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state and city policy, must be administered with due regard for such emergency; and that the policy herein expressed is now administered locally within the city of New York by an agency of the city itself, pursuant to the authority conferred by chapter twenty-one of the laws of nineteen hundred sixty-two.

The council further finds that, prior to the adoption of local laws sixteen and fifty-one of nineteen hundred sixty-nine, many owners of housing accommodations in multiple dwellings, not subject to the provisions of the city rent

and rehabilitation law enacted pursuant to said enabling authority either because they were constructed after nineteen hundred forty-seven or because they were decontrolled due to monthly rental of two hundred fifty dollars or more or for other reasons, were demanding exorbitant and unconscionable rent increases as a result of the aforesaid emergency, which led to a continuing restriction of available housing as evidenced by the nineteen hundred sixty-eight vacancy survey by the United States bureau of the census; that prior to the enactment of said local laws, such increases were being exacted under stress of prevailing conditions of inflation and of an acute housing shortage resulting from a sharp decline in private residential construction brought about by a combination of local and national factors; that such increases and demands were causing severe hardship to tenants of such accommodations and were uprooting long-time city residents from their communities; that recent studies establish that the acute housing shortage continues to exist; that there has been a further decline in private residential construction due to existing and proposed cuts in federal assistance to housing programs; that unless such accommodations are subjected to reasonable rent and eviction limitations, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; and that such conditions constitute a grave emergency.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-1.0 added LL 16/1969 § 1

Amended LL 1/1974 § 1

CASE NOTES

¶ 1. Federal Home Loan Mortgage Corp. v. New York State Division of Housing and Community Renewal, 87 N.Y.2d 325, 639 N.Y.S.2d 293 (1995). Units in rent stabilized building that was converted to cooperative ownership revert to rent stabilized units upon foreclosure of mortgage on cooperative building.

¶ 2. A landlord and tenant entered into an apartment lease for a rent greater than the lawful stabilized rent but still less than the free market rate. The lease had a condition that the apartment not be the tenant's primary residence. The court held that such a lease was void as against public policy, because rent stabilized units, which are in short supply, must be reserved for those who need them as primary residences. The landlord directed the landlord to enter into a new lease with the tenant, at the lawful stabilized rent but subject to the rule that tenant had to maintain the apartment as a primary residence.

390 West End Assocs. v. Harel, 298 A.D.2d 11, 744 N.Y.S.2d 412 (1st Dept. 2002).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-502

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-502 Additional findings and declaration of emergency.

The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons within the City of New York and will continue to exist on and after April first, two thousand six and hereby reaffirms and repromulgates the findings and declaration set forth in section 26-501 of this title.

HISTORICAL NOTE

Section amended L.L. 3/2006 § 1, eff. Mar. 29, 2006.

Section amended L.L. 21/2003 § 1, eff. Mar. 26, 2003.

Section amended L.L. 12/2000 § 1, eff. Mar. 28, 2000.

Section amended L.L. 13/1997 § 2, eff. Mar. 31, 1997.

Section amended L.L. 4/1994 § 6, eff. Mar. 30, 1994.

Section amended L.L. 20/1991 § 1 eff. Apr. 1, 1991

Section amended L.L. 18/1988 § 1

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-1.0.1 added LL 8/1979 § 1

Amended LL 18/1982 § 1

Amended LL 24/1985 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-503

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-503 Short title.

This law may be cited as the rent stabilization law of nineteen hundred sixty-nine.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-2.0 added LL 16/1969 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-504

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-504 Application.

This law shall apply to:

a. Class A multiple dwellings not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law, containing six or more dwelling units which:

(1) were completed after February first, nineteen hundred forty-seven, except dwelling units (a) owned or leased by, or financed by loans from, a public agency or public benefit corporation, (b) subject to rent regulation under the private housing finance law or any other state law, (c) aided by government insurance under any provision of the national housing act, to the extent this chapter or any regulation or order issued thereunder is inconsistent therewith, or (d) located in a building for which a certificate of occupancy is obtained after March tenth, nineteen hundred sixty-nine; or (e) any class A multiple dwelling which on June first, nineteen hundred sixty-eight was and still is commonly regarded as a hotel, transient hotel or residential hotel, and which customarily provides hotel service such as maid service, furnishing and laundering of linen, telephone and bell boy service, secretarial or desk service and use and upkeep of furniture and fixtures, or (f) not occupied by the tenant, not including subtenants or occupants, as his primary residence, as determined by a court of competent jurisdiction, provided, however that no action or proceeding shall be commenced seeking to recover possession on the ground that a housing accommodation is not occupied by the tenant as his or her primary residence unless the owner or lessor shall have given thirty days notice to the tenant of his or her intention to commence such action or proceeding on such grounds. For the purposes of this subparagraph where a housing accommodation is rented to a not-for-profit hospital for residential use, affiliated subtenants authorized to use such accommodations by such hospital shall be deemed to be tenants, or (g) became vacant on or after June thirtieth, nineteen hundred seventy-one, or become vacant, provided however, that this exemption shall not apply or become

effective with respect to housing accommodations which the commissioner determines or finds became vacant because the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including but not limited to, interruption or discontinuance of essential services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and provided further that any housing accommodations exempted by this paragraph shall be subject to this law to the extent provided in subdivision b of this section; or (2) were decontrolled by the city rent agency pursuant to section 26-414 of this title; or (3) are exempt from control by virtue of item one, two, six or seven of subparagraph (i) of paragraph two of subdivision e of section 26-403 of this title; and

b. Other housing accommodations in class A or class B multiple dwellings made subject to this law pursuant to the emergency tenant protection act of nineteen seventy-four.

c. Dwelling units in a building or structure receiving the benefits of section 11-243 or section 11-244 of the code or article eighteen of the private housing finance law, not owned as a cooperative or as a condominium, except as provided in section three hundred fifty-two-eeee of the general business law and not subject to chapter three of this title. Upon the expiration or termination for any reason of the benefits of section 11-243 or section 11-244 of the code or article eighteen of the private housing finance law any such dwelling unit shall be subject to this chapter until the occurrence of the first vacancy of such unit after such benefits are no longer being received or if each lease and renewal thereof for such unit for the tenant in residence at the time of the expiration of the tax benefit period has included a notice in at least twelve point type informing such tenant that the unit shall become subject to deregulation upon the expiration of such tax benefit period and states the approximate date on which such tax benefit period is scheduled to expire, such dwelling unit shall be deregulated as of the end of the tax benefit period; provided, however, that if such dwelling unit would have been subject to this chapter or the emergency tenant protection act of nineteen seventy-four in the absence of this subdivision, such dwelling unit shall, upon the expiration of such benefits, continue to be subject to this chapter or the emergency tenant protection act of nineteen seventy-four to the same extent and in the same manner as if this subdivision had never applied thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-3.0 added LL 16/1969 § 1

Amended chap 576/1974 § 7

Sub c added LL 60/1975 § 12

Sub b amended chap 675/1981 § 1

Sub c amended LL 39/1981 § 2

Sub a open par amended chap 555/1982 § 4

Sub c amended chap 555/1982 § 5

(see expiration date, chap 555/1982 § 10)

Sub a amended chap 403/1983 § 41

Sub a par 1 subpar f amended chap 940/1984 § 1

(see expiration date, chap 940/1984 § 5)

Sub c amended chap 67/1985 § 4

(see expiration date, chap 67/1985 § 10)

Sub c amended chap 288/1985 § 7

(see effective date provisions, chap 288/1985 § 8)

(Chap 288/1985 § 8 amended chap 289/1985 § 4)

Sub c amended chap 289/1985 § 3

CASE NOTES FROM FORMER SECTION

¶ 1. Dwelling units owned by the FHA are exempt from the New York City Rent Stabilization Law.-Federal Housing Commissioner v. Reese, 62 Misc. 2d 522, 309 N.Y.S. 2d 619 (1970).

¶ 2. Rent Stabilization Law held applicable to two decontrolled apartments in multiple dwelling containing seven dwelling units even though five apartments were rent controlled. Schacht v. City of N.Y. Housing and Development Administration, 63 Misc. 2d 1003, 314 N.Y.S. 2d 104 [1970].

¶ 3. Petitioner who owned stock in a cooperative apartment house and a proprietary lease to an apartment was the landlord of the statutory tenant who occupied the apartment and had a right to file an application for a rent increase on the apartment and price which he paid for the leasehold may be considered in determining its value. Tager v. Com'r. of Dept. of Rent., 66 Misc. 2d 452, 320 N.Y.S. 2d 947 [1971].

¶ 4. Premises subject to a first mortgage guaranteed by the Federal Housing Administration are not exempt from the Rent Stabilization Law. Pelham Towers v. Conciliation & Appeals Board, 71 Misc. 2d 814, 337 N.Y.S. 2d 485 [1972].

¶ 5. Federal regulations of the U.S. Department of Housing and Urban Development do not automatically exempt federally insured housing from all local rent laws and hence petitioner improperly pleaded that Rent Stabilization Laws were superseded by increase in rents pursuant to federal regulations by virtue of preemption by federal government.-Sokol Apts. v. Berlenghi, 71 A.D. 2d 622, 418 N.Y.S. 2d 145 [1979].

¶ 6. Landlord's petition in holdover summary proceeding of housing accommodations in a class B multiple dwelling was jurisdictionally defective where it failed to allege that it was subject to the Rent Stabilization Law or the Emergency Tenant Protection Act since all classes of multiple dwellings including class B are rent stabilized and under legislative regulation pursuant to ETRA.-Post v. Reynolds, 101 Misc. 2d 504 [1979].

¶ 7. Where parties agreed that premises would be used for both commercial and residential purposes under lease, 50% as a showroom and 50% as residential, the provisions of the Rent Stabilization Law applied and fact that a corporation enters into a lease for a residential apartment and uses it for both commercial and residential purposes does not place it outside the operation of the Rent Stabilization Law.-Park Towers v. A-Lalan Imports, Inc., 101 Misc. 2d 507 [1979].

¶ 8. Tenants who had rented loft under lease which limited occupation of premises to "artists studios and for no other purposes" but had spent considerable amounts of money to convert space to living quarters with encouragement of landlord and were assured by landlord that he would legalize occupancy were subject to Rent Stabilization Law and entitled to a renewal lease at a stabilization rent to be fixed by the Conciliations and Appeals Board.-Mandel v. Pitkowsky, 102 Misc. 2d 478, 425 N.Y.S. 2d 926 [1979].

¶ 9. Where a commercial building was continuously occupied since 1968 by at least 3 loft tenants living independently of each other it constituted a de facto dwelling and petition in a holdover summary proceeding which failed to allege information required by Civil Court rule regarding filing of registration statement would be dismissed on jurisdictional grounds.-Id.

¶ 10. Although premises constructed in 1976 with §236 National Housing Act subsidy was not subject to rent stabilization, tenant could be evicted only for good cause and is entitled to procedural due process in determination of whether cause exists since joint state and federal government participation in affording housing for the poor placed project within protection of the Fourteenth Amendment.-Hudsonview Terrace, Inc. v. Maury, 100 Misc. 2d 331, 419 N.Y.S. 2d 409 [1979].

¶ 11. A Class B multiple dwelling law apartment occupied by a tenant following a prior post-June 30, 1971 vacancy is subject to Rent Stabilization Law and hence petition in holdover summary proceeding which failed to allege that the premises are subject to such law was jurisdictionally defective.-Post v. Marquez, 421 N.Y.S. 2d 320 [1979].

¶ 12. Landlord's arbitrary rejection after tenant's notice of intent to sublease a rent stabilized apartment gave tenant right to sublease, and the right of release from the lease upon an unreasonable denial of right to sublease belongs to the tenant not the landlord.-Kruger v. Page Management Co., 422 N.Y.S. 2d 295 [1980].

¶ 13. Use of apartment by child care association as a group home for girls with emotional difficulties constituted a residential tenancy which made it subject to rent stabilization law.-Koenig v. Jewish Child Care Asso., 104 Misc. 2d 811, 429 N.Y.S. 348 [1980].

¶ 14. The Emergency Tenant Protection Act did not extend rent stabilization to tenants residing in Class B multiple dwellings.-La Guardia v. Cananaugh, 53 N.Y. 2d 67 [1981].

¶ 15. The maximum rent allowed on a rent stabilized building that converts to a "section 8" tenancy under U.S. Code T. 42, § 1437f is not the fair market rent for the apartment but the rent stabilized amount.-Wiener v. N.Y.C. Housing Authority, 106 Misc. 2d 843 [1981].

¶ 16. When the city becomes the landlord of residential buildings after default by owner in payment of property taxes the tenants are entitled to sufficiently detailed information to enable them to determine whether any rent raises are warranted, the grounds for such proposed increases and the manner in which they are to be calculated.-Matter of Laureano v. Koch, 116 Misc. 2d 287 [1982].

¶ 17. 6 x 15 ft. "maid's room" in 42 year old class A mult. dwelling that is not a legal dwelling unit under city's Housing Maintenance Code (§ D26-1.01 et seq.) due to insufficient space and lack of water closet and bath, is nonetheless a housing accommodation subject to the city's Rent Stabilization Law as a vacancy decontrolled unit subject to rent stabilization by Emergency Tenant Protection Act of 1974 (YY51-3.0(b)).-128 Central Park South Assocs. v. Phylis Cooney, 119 Misc. 2d 1045 [1983].

¶ 18. YMCA housing facilities are exempt from rent stabilization because they are owned and operated by an institution operated exclusively for charitable or educational purposes as excepted by § 5 Emergency Tenant Protection Act.-YMCA of Greater New York v. Brandt, 190 (52) N.Y.L.J. (9-14-83) 12. col. 4T.

¶ 19. Even though lease specifies that premises will be used solely for residential purposes, tenant used them solely as a business office. Premises subject to Rent Stabilization Law (Title YY) are only those actually used for residential purposes. Since these are not actually so used, title YY does not apply, and so tenant is not entitled to a renewal lease pursuant thereto.-Coronet Properties Co. v. Jennie & Co. Film Productions, Inc., 121 Misc. 2d 873 [1983].

¶ 20. The thirty day notice provision of subdivision (a)(1)(f) is applicable to a declaratory judgment action in

which the landlord seeks a declaration that the tenant is not occupying the apartment as a primary residence.-Sutton Assoc. v. Bush, 125 Misc. 2d 438 [1984].

¶ 21. Subdivision (a)(1)(f) of this section is to be construed such that a tenant who fails to occupy an apartment as his primary residence is not permitted to cure his nonprimary residence status after a landlord has commenced a summary proceeding against the tenant on the grounds that the tenant does not maintain the premises as his primary residence.-Lufkin v. Drago, 126 Misc. 2d 177 [1984].

¶ 22. Subdivision (a)(1)(g) applies to tenancies commenced in 1983 and petitioner college is therefore not required to give respondent notice of its intention not to renew the lease.-Columbia Univ. v. Lefkowitz, 126 Misc. 2d 319 [1984].

¶ 23. A rent-stabilized tenant who becomes a superintendent and changes apartments retains his status as a rent-stabilized tenant when discharged from the position of superintendent.-Orlando v. Ortiz, 193 (47) N.Y.L.J. (3-23-85) 13, col. 3M.

¶ 24. A tenant who took occupancy in 1972 during the period of "vacancy decontrol" under a lease containing a standard affiliation clause, has never been and is not now a tenant protected by the Rent Stabilization Law of 1969, section YY51-1.0 et seq.-Trustees of Univ. v. James, 127 Misc. 2d 81 [1985].

CASE NOTES

¶ 1. A landlord-tenant dispute in which plaintiff tenant sought declaration that apartment originally let for commercial occupancy was subject to Rent Stabilization Law and recovery of alleged overcharges pursuant to § 54(E)(2) of the Rent Stabilization Association Code and a renewed lease. Tenant alleges that landlord had knowledge of residential purposes and that premises was primary residence and subject to provision of NYC Ad Cd § YY51-3.0(a)(1)(F) that landlord give 30 days notice to commence recovery action. Metzendorf v. 130 W. 57 Co., 132 AD2d 262 [1987].

¶ 2. An apartment located in a building converted to cooperative ownership before the Rent Stabilization Law went into effect on May 12, 1969 was excluded from the coversion plan. Such units are excluded from stabilization if they were offered for sale to tenants prior to May 12, 1969 pursuant to § 2(g)(5) of Rent Stabilization Association Code. This apartment is subject to rent stabilization because no offer for sale was made. McAvity v. Mirabal, 136 Misc. 2d 823 [1987].

¶ 3. Master television antenna service was ordered included in a registration statement as an "ancillary service including . . . recreational facilities". If the service was independently contracted for and the building owner had no ownership interest the charge was not subject to limitations of stabilization. However as of May 1, 1987 a new code provides an ancillary service with a separate charge is not subject to the code under certain circumstances. Mid-State Management Corp. v. State Division of Housing and Community Renewal. 136 AD2d 529 [1988].

¶ 4. The addition of an apartment converting a building from a 5-family building plus an office to a 6-family building plus an office subjected the premises to regulation under the Rent Stabilization Law. Whether the post 1974 rehabilitation should be exempted is a question of fact to be resolved at trial. Gandler v. Roscido, 138 Misc. 2d 740 [1988].

¶ 5. Rent-stabilized dwelling unit was being used as a commercial electrolysis studio in violation of zoning laws. The illegality is not one of the grounds for exemption from regulation set forth in § 26-504(a)(1). It is better public policy for landlord to seek recovery of premises through summary proceeding rather than seeking a rent increase to fair market value because of an illegal use. Kace Realty Co. v. DHCR, 139 Misc. 2d 23 [1988].

¶ 6. Horizontal multiple dwellings other than "garden-type maisonette" dwelling may be subject to rent regulation as class A multiple dwellings of 6 or more units. Some criteria used to include in rent regulation are common facilities,

common ownership and common operation. Common heating unit is not an adequate basis as sole criteria. Salvati v. Eimicke, 72 N.Y.2d 784, 537 N.Y.S.2d 16 (1988).

¶ 7. A not-for-profit hospital which is named tenant on expired leases for rent-stabilized apartments is not entitled to renewal leases pursuant to L. 1984, ch. 940 which provided that such hospitals are entitled to renewal leases when they sublet to "affiliated" personnel (nurses), § 26-504(a)(1)(f), because that statute constitutes an unconstitutional taking of landlord's property. Rather, ch. 940 shall be interpreted as requiring landlord to offer renewal lease to hospital employees occupying the subject apartments as a primary residence. 520 East 81st St. v. Lenox Hall, 142 Misc 2d 723, reversed, 157 AD2d 138 [1990].

¶ 8. Respondents, the son of the deceased tenant-of-record who failed to establish that he lived in the premises as his primary residence beyond 1986, and the live-in lover of the deceased tenant who established that he had been living with the deceased tenant prior to her death, are not entitled to any succession rights afforded by the rent stabilization laws due to the ownership of the building by the City of NY (Ad Code of the City of NY § 26-504) because petitioner failed to prove compliance with the terms of the lease with the city requiring that it give written notice to the Dept. of Housing Preservation and Development prior to commencing a summary proceeding which constituted a breach of an important term of the lease. Rosenberg Diamond Development Corp. v. Lewis, 146 Misc. 2d 964.

¶ 9. A not-for-profit hospital, which is the named tenant on expired leases for rent-stablized apartments in a building converted to condominium ownership, is not entitled to renewal leases for the subject apartments pursuant to laws of 1984 (ch. 940), which amended the rent stabilization law to provide that such hospitals are entitled to renewal leases where they sublet the apartments to "affiliated" personnel, pursuant to Ad Code of the City of NY § 26-504(a)(1)(b), and permitted such subletting without the consent of the landlord. 520 E. 81st St. Associates v. Lenox Hill Hospital, 157 AD2d 138.

¶ 10. Where the subject apartment was not being used as a primary residence, Ad Cd §26-504(a)(1)(f) may not be used to establish tenancy regarding a cooperative conversion. Bruenn v. Cole, 165 Ad2d 443, 568 N.Y.S.2d 351 [1991].

¶ 11. At issue is whether an apartment described as a "maids room" comprises part of a residence, § 26-504(a)(1)(f). Shareholder of a cooperative corporation seeks renewal lease to space for which no shares have been allocated. DHCR lacks power to decide the controversy or to direct the parties to take any action. It is within the province of the court § 26-504(a)(1)(f). 10 W. 66th St. Corp. v. DHCR, 184 AD2d 143, 591 N.Y.S.2d 148 [1992].

¶ 12. Where an apartment is leased to a corporation, the corporation cannot be deemed a "primary resident" of the apartment. In Manocherian v. Lenox Hill Hospital, 84 N.Y.2d 385, 618 N.Y.S.2d 857, cert denied 514 US 1109, 115 Sup.Ct. 1961, 131 L.Ed.2d 853, the court struck down on constitutional grounds a portion of the statute which would have permitted not-for-profit hospitals to lease rent stabilized units in perpetuity for the purpose of subleasing them to hospital staff members. The court held that the statute called for an impermissible "taking" within the meaning of the due process section of the Constitution. Subsequently, it was held that subtenants of the hospital did not have renewal rights for their apartments. Manocherian v. Lenox Hill Hospital, 229 A.D.2d 197, 654 N.Y.S.2d 339 (1st Dept. 1997), motion for leave to appeal denied, 90 N.Y.2d 835, 660 N.Y.S.2d 710 (1997).

¶ 13. A multiple dwelling exempt from the Rent Stabilization Law because of its cooperative ownership reverts to its former rent-regulated status upon foreclosure and the return of the building to operation as rental housing. The Rent Stabilization Law applies to "Class A multiple dwellings not owned as a cooperative", Administrative Code §26-504. Federal Mtge. Corp. v. DHCR, 87 NY2d 325 [1995].

¶ 14. Where a rent stabilized tenant is a corporation, the notice of non-renewal of lease on the ground of non-primary residence must focus on the residence of the person occupying the apartment. A notice which stated that the "tenant" occupied a residence other than the primary residence, without even naming the actual occupant, who happened to be a principal of the corporation, was insufficient. 169 Beekman Associates v. John-Platt Enterprises, Inc.,

162 Misc.2d 823, 618 N.Y.S.2d 990 (Civ.Ct. New York Co. 1994).

¶ 15. A partitioned semi-enclosed unit described as a "cubicle," which contains a locked entrance door and is furnished with a bed and closet provided by the landlord, was protected under rent stabilization. The cubicle was intended to and had in fact been the tenant's residence for a period of years. Neither the absence of on-premises kitchen or bathroom facilities nor the unit's small size changed the result. Gracecor Realty Co., Inc. v. Hargrove, 160 Misc.2d 963, 615 N.Y.S.2d 213 (App.Term 1st Dept. 1994).

¶ 16. A previously rent stabilized building was the subject of a cooperative conversion. Where a foreclosure of the building mortgage occurred, the shareholders lost their investments but became rent stabilized tenants. The court held that the re-imposition of rent stabilization on previously exempt cooperative buildings upon foreclosure was not an unconstitutional physical taking. The rent laws merely regulated the terms on which the landlord could use property. The Federal Home Loan Mortgage Corporation had voluntarily purchased a building containing residential tenants, and the law simply regulated the amount of rent that could be charged to the tenant. The mere fact that the rent regulation laws made the operation of the building less profitable did not make them unconstitutional. The landlord still had the use of the property. Federal Home Loan Mortgage Corp. v. New York State Division of Housing and Community Renewal, 83 F.3d 45 (2nd Cir. 1996).

¶ 17. Where the building's certificate of occupancy reflected the existence of six residential units, the illegal conversion in 1970 of two units into one, leaving five residential units, will not result in an exemption of the premises from rent stabilization coverage. Loventhal Management v. New York State Division of Housing and Community Renewal, 183 A.D.2d 415, 583 N.Y.S.2d 270 (1st Dept. 1992).

¶ 18. Pursuant to the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA), the Resolution Trust Corp. (RTC), was created for the purpose of managing the assets of failed financial institutions. The court held that under federal law, the RTC had the power to repudiate contracts which it considered burdensome. Rent stabilized leases came within this definition. Although tenants and the State of New York argued that the tenancies were statutory rather than contractual in nature, the court found that the federal law pre-empted the state rent regulatory scheme. Thus, the RTC could refuse to renew rent stabilized leases when they expired. Resolution Trust Corp. v. Diamond, 45 F.3d 665 (2nd Cir. 1995).

¶ 19. The application of rent stabilization to a former cooperative building after foreclosure of the building mortgage, was not an unconsitutional taking of property. Federal Home Loan Mortgage Corp. v. New York State Division of Housing and Community Renewal, 83 F.3d 45 (2nd Cir. 1996).

¶ 20. A notice of renewal which merely stated that the tenant did not occupy the premises as a primary residence was insufficient, where it failed to set forth the underlying facts regarding non-primary residence. Berkley Associates v. Camlakides, 173 A.D.2d 193, 569 N.Y.S.2d 629 (1st Dept. 1991). However, the notice does not have to state a specific address for the tenant at a location other than the subject apartment; a notice was held to be sufficient where it stated that in the past two years the tenant had not occupied the apartment for more than a few days, that the tenant had permitted at least twelve "roommates" to occupy the apartment and that certified mail sent to the tenant at the apartment had been returned as undelivered. See Price v. Chelsimore Apartment, N.Y.L.J., Mar. 8, 1996, page 25, col. 3 (App.Term 1st Dept.).

¶ 21. The mere fact that the tenant's subleasing of the apartment was lawful does not preclude the landlord from attempting to evict the tenant on the ground of non-primary residence. Corliss Estates v. Yulin, N.Y.L.J., Apr. 10, 1996, page 26, col. 5 (Civ.Ct. New York Co.).

¶ 22. The court dismissed a non-primary residence case even though the tenant had a Wyoming driver's license and automobile registration. The tenant submitted evidence of long distance telephone bills and frequent cash withdrawals from automatic teller machines in New York, all of which tended to show that he spent most of his time in

this state. Delmonico Hotel Co. v. Rumsey, N.Y.L.J., Oct. 29, 1996, page 25, col. 1 (App.Term 1st Dept.).

¶ 23. A landlord's unilateral action in combining apartments, thereby reducing the number of residential units from seven to five subsequent to the base date for rent stabilization purposes, cannot effect an exemption from the rent regulation statutes. Shubert v. New York State Division of Housing and Community Renewal, 162 A.D.2d 261, 556 N.Y.S.2d 618 (1st Dept. 1990).

¶ 24. A tenant moved into an apartment and, two years later, married a man who had his own apartment in the building. The court held that even though she had married, she could still retain her own apartment as a primary residence, where she actually spent part of her time in the subject apartment. 224 East 18th Street v. Sijacki, 138 Misc.2d 494, 524 N.Y.S.2d 964 (Civ. Ct. New York Co. 1987). Several other cases have held that a single tenant can have maintain primary residence of a two or more non-contiguous apartments. See Page Associates v. Dolan, N.Y.L.J., Nov. 8, 1984, page 4, col. 2 (App.Term 1st Dept.) (second apartment rented on the same floor so tenant's nephew, who was being raised by tenant, can have his own bedroom); Burgess v. Campbell, N.Y.L.J., July 29, 1981, page 7, col. 4 (Sup.Ct. New York Co.) (three additional apartments in the building rented over several years to accomodate growing family needs); Bill Tracy Associates v. Faust, N.Y.L.J., Apr. 15, 1987 (Civ. Ct. New York Co.) (tenant of two bedroom apartment renting additional one bedroom apartment used as study, guest room and storage area, spenind a fair amount of time there). However, where a tenant once used the subject apartment for residential purposes but now uses the that apartment solely for commercial purposes and resides elsewhere in the building, the tenant no longer can maintain primary residence status for the apartment. Ter Arutunian v. Stahl Associates, N.Y.L.J., Jan. 23, 1987, page 13, col. 1 (Sup.Ct. New York Co.).

¶ 25. The fact that the premises have been coverted to cooperative or condominium ownership will not preclude the landlord from maintaining a non-primary residence proceeding against a tenant who elected not to purchase the apartment. West End Associates v. Lasky, N.Y.L.J., July 23, 1997, page 23, col. 3 (Civ. Ct. New York Co.). See also, Rosenberg v. Field, N.Y.L.J., May 16, 1994, page 27, col. 4 (App.Term 1st Dept.).

¶ 26. A loft building covered as an Interim Multiple Dwelling under Article 7C of the Multiple Dwelling Law contained at least three but less than six units. The court held that even after the building was brought into compliance with the applicable building codes, and a residential certificate had been issued for the building, the tenants still retained their rent stabilization status. Eastlite Corp v. Barth, N.Y.L.J., May 16, 1997, page 25, col. 2 (App.Term 1st Dept.).

¶ 27. Premises which are used primarily for commercial purposes will not qualify for rent stabilization protection. Gallin v. Mendelson, 151 A.D.2d 228, Power v. Powers, N.Y.L.J., July 29, 1997, page 21, col. 3 (App.Term 1st Dept.).

¶ 28. A tenant who uses the apartment for commercial or professional purposes (in this case, a physician's office) rather than residential purposes will not have the right to purchase the apartment as an "insider" when the building undergoes a cooperative conversion. Gluck v. Jackson Management Corp., 143 A.D.2d 629, 532 N.Y.S.2d 914 (2nd Dept. 1988).

¶ 29. In deciding a primary residence case, the court can consider the entire history of the tenancy. Thus, even if the tenant allegedly was in occupancy at the time that the landlord served the notice of non-renewal, where the tenant did not reside at the premises at any time between 1974 and September 1993 and did not reside in the premises for the first 16 months of the most recent 24 month renewal, the tenant did not have any ongoing, substantial physical nexus with the premises for actual living purposes. Thus, the court granted a holdover proceeding seeking eviction of the tenant on the ground of non-primary residence. The fact that the tenant's family members occupied the apartment in his absence (they have since vacated) may not be imputed to the tenant. The apartment may not be transferred from one family member to another where there has been no contemporaneous occupancy and no claim of succession rights. Berwick Land Corp. v. Mucelli, 656 N.Y.S.2d 88 (App.Term 1st Dept. 1996).

¶ 30. Although an apartment used entirely for commercial purposes will not qualify for rent stabilization coverage,

an apartment which used used partly for residential purposes and partly for professional purposes is covered by the rent stabilization law. Kace Realty Co. v. New York State Division of Housing and Community Renewal, 139 Misc.2d 23, 526 N.Y.S.2d 337 (Sup.Ct. New York Co. 1988), citing Matter of Zeitlin v. New York City Conciliation and Appeals Board, 46 N.Y.2d 992, 416 N.Y.S. 233 (1979). The fact that the commercial use may have been illegal under the zoning law will not affect the rent stabilization status of the premises. Kace Realty, supra.

¶ 31. A court found that a tenant was not occupying the apartment as a primary residence, where had a Connecticut driver's license and had not filed New York City resident income tax returns. Pendias v. 3 East 69th Street Associates, 119 A.D.2d 467, 500 N.Y.S.2d 679 (1st Dept. 1986).

¶ 32. The tenant is entitled to a renewal lease where the landlord failed to serve the tenant with a notice of non-renewal (in this case, on the ground of non-primary residence) within the period of 150 days to 120 days before the expiration of the lease. Crow v. 83rd Street Associates, 68 N.Y.2d 796, 506 N.Y.S.2d 858 (1986).

¶ 33. Nurses who sublease their apartments from non-profit hospitals (which in turn leased the apartments from the landlord) are not entitled to renewal leases under rent stabilization. Manocherian v. Lenox Hill Hospital, 654 N.Y.S.2d 339 (App.Div. 1st Dept. 1997).

¶ 34. In Avon Bard Co. v. Aquarian Foundation, 260 A.D.2d 207, 688 N.Y.S.2d 514 (1st Dept. 1999), motion to dismiss appeal granted, 93 N.Y.2d 998, 695 N.Y.S.2d 743 (1999), a minister, who was the leader of a non-profit religious foundation, had resided in the subject apartment for many years. The court held that since the lease did not designate any particular individual who could occupy the apartment, the minister could not achieve rent stabilization protection for the apartment. The court said that since no individuals were named in the lease as occupants of the apartment, there were no assurances that the apartment would not be occupied at a future time by other members of the church. In other words, a court would not permit a corporate tenant to obtain occupancy of the apartment in perpetuity. The Avon court referred to the earlier case of Cale Dev. Co. v. Conciliation and Appeals Board, 94 A.D.2d 229, 463 N.Y.S.2d 814 (1st Dept. 1983), aff'd 61 N.Y.2d 976, 475 N.Y.S.2d 278 (1984) and stated the Cale rule as follows: an occupant of a corporate apartment has the right to continuous occupancy if and only if that individual is named in the lease.

¶ 35. In one case, where the tenant named in the lease was absent from the apartment, the court did not permit the tenant to use the occupancy of family members to meet the primary residence test. The court also pointed out that succession rights could not be transferred from one family member to another where there had been no contemporaneous occupancy. Berwick Land Corp. v. Mucelli, 249 A.D.2d 18, 671 N.Y.S.2d 44 (App.Div. 1st Dept. 1998).

¶ 36. It is possible for a tenant to establish a primary residence in two non-adjacent units in the building. The court considers intent of the tenant, and the landlord's knowledge or acquiescence in such use. In one case, the landlord attempted to recover the second of two apartments, contending that the tenant had used it for storage rather than for residence. Where the tenant offered unrebutted proof that she had used both apartments on a regular basis for more than 40 years, and that many years ago the landlord had performed renovations to the second apartment, removing fixtures and changing the configuration in order to accommodate the tenant and her family, the court held that the tenant had shown an ongoing physical nexus to both apartments. Accordingly, the court dismissed a holdover proceeding based on non-primary residence. East 53 Co. v. Tarwid, N.Y.L.J., July 15, 1998, page 23, col. 1 (Civ.Ct. New York Co.).

¶ 37. A lodging house will be subject to rent stabilization. The Rent Stabilization Law does not contain any minimum requirement as to square footage. The court can consider the length of time that the occupant has lived at the premises, and whether the occupant has any other residence. In the instant case, the landlord had rented space to the occupant for a continuous period of two years, and the tenant had no other residence during that time. Although the landlord could have limited length of stay in same living area to less than one week at a time (Multiple Dwelling Law § 4(14) defines a lodging house as a multiple dwelling in which persons are housed for hire for a single night or for less

than a week, or any part of which is let for any person for any term less than a week); that provision of the Multiple Dwelling Law is irrelevant since the actual length of continuous occupancy was considerably longer. Moreover, the landlord allowed the tenant to retain a key over an extended period, which enabled the tenant to exclude others from the designated space. The landlord here allowed the tenant to store personal possessions inside a locker within the enclosed confines. Gracecor Realty Co., Inc. v. Hargrove, 90 N.Y.2d 350, 660 N.Y.S.2d 704 (1997).

¶ 38. Horizontal multiple dwellings may be covered by rent stabilization where they share common ownership, management, operation and facilities so as to warrant treating the housing as an integral unit. Walljoy Realty Co. v. DHCR, N.Y.L.J., Sept. 26, 1997, paget 30, col. 4 (App.Div. 1st Dept.).

¶ 39. In U.B.O. Realty Corp. v. Mollica, 175 Misc.2d 897, 673 N.Y.S.2d 507 (App.Term 1st Dept. 1997), aff'd 683 N.Y.S.2d 532 (App.Div. 1st Dept. 1999), the premises were equipped with a loft bed, kitchen and bathroom when the tenant began occupancy. The tenant originally lived in the entire space for three years and then began to use front half for a copy shop business. Although the tenant signed series of commercial leases which limited use of premises for photocopy shop "and for no other purpose," that last phrase was deleted and the deletion was initialed in last lease. The court held that the landlord's acquiescence in the long-term use of mixed living/working space created rent stabilization status in favor of the tenant. Thus, a holdover proceeding which alleged commercial use, was dismissed.

¶ 40. In one non-primary residence case in which the tenant prevailed, the tenant had a cooperative apartment elsewhere in Manhattan, but adequately explained the need for a second apartment. Both the doorman and tenant's neighbors agreed that they frequently saw the tenant in the building. Although the tenant was having marital difficulties which caused him to obtain a separate residence, that fact alone did not divest the tenant of his primary residence. The testimony was that either the tenant or his wife slept at the apartment on almost any given night. Polymenopoulos v. Sadoff, N.Y.L.J., July 27, 1998, page 27, col. 6 (App.Term 1st Dept.).

¶ 41. The landlord prevailed in a non-primary residence case, where the tenant listed a Queens address on his motor vehicle registration, and the Queens apartment was considerably larger than the disputed apartment. The fact that the Manhattan apartment was smaller showed that it was most likely subject to only incidental use, the court said. Golden Blossom Realty, Inc. v. Chen, N.Y.L.J., Sept. 18, 1998, page 25, col. 2 (App.Term 1st Dept.).

¶ 42. In one primary residence case, a tenant owned a condominium in Florida and registered her car there and held a Florida driver's license. However, she voted in New York, paid New York City income taxes, had a New York driver's license, obtained medical care in New York and kept much of her clothes at the subject apartment. The court held that the tenant had a primary residence in New York. One factor was that although the tenant had obtained a Florida homestead exemption (an indication of Florida residence), she had withdrawn her claim for that exemption, which was an indication that she considered New York to be her primary residence. Four Winds Assocs. v. Rachlin, 248 A.D.2d 352, 669 N.Y.S.2d 650 (2d Dept. 1998).

¶ 43. In non-primary residence cases, courts give landlords fairly wide latitude in terms of discovery. However, in one case, a court held that a tenant was not entitled to discovery regarding the landlord's knowledge of the tenant's primary residence. New York Life Ins. Co. v. Durcekova, N.Y.L.J., Dec. 1, 1998, page 25, col. 2 (App. Term 1st Dept.).

¶ 44. Apparently, where a building was under rent control by reason of the "J-51" program (Admin. Code § 11-243) and became decontrolled when the J-51 benefits expired, an apartment in the building will be rent stabilized until the first vacancy occurs. Thus, even though the building has less than six units, the apartment will be rent stabilized so long as the current tenant (who has been in occupancy since 1973) chooses to remain there. Sack v. DHCR, 250 A.D.2d 537, 673 N.Y.S.2d 420 (1st Dept. 1998), leave to appeal denied, 93 N.Y.2d 802, 687 N.Y.S.2d 626 (1999).

¶ 45. In one case, a lease provided that the apartment was to be used only for medical practice but the tenant actually used it as a residence. The court held that the apartment was not rent stabilized. The fact that the landlord

mistakenly registered the premises as rent stabilized did not change the result, because coverage cannot be created by waiver or estoppel. Ruiz v. Chwatt Associates, 247 A.D.2d 308, 669 N.Y.S.2d 47 (1st Dept. 1998).

¶ 46. A landlord cannot lawfully compel a tenant to agree, as a condition of renting an apartment, that the apartment will not be used as a primary residence. Draper v. Georgia Properties, 94 N.Y.2d 809, 701 N.Y.S.2d 322 (1999).

¶ 47. The primary residence rule exists as a matter of public policy, and cannot be waived by agreement between the landlord and tenant. Rima 106 L.P. v. Alvarez & Clark, 690 N.Y.S.2d 40 (1st Dept. 1999).

¶ 48. It is possible for a tenant to use two non-contiguous apartments as a primary residence. In deciding the case, the court looks to the tenant's intent, as shown by the use of the apartments. Another factor is whether the owner knew of and acquiesced in the tenant's living arrangements. If a prior owner has found to have "waived" the tenant's non-primary residence by reason of its knowledge of and acquiescence in the tenant's activities, such waiver will be binding upon the subsequent owners. In one case, an artist who used one of the apartments ("5N") solely for residential purposes and the other apartment ("5S") partly for residential purposes and partly as an artist studio, was able to prevail in a primary residence proceeding. The landlord pointed out that the tenant had taken a business tax deduction for Apartment 5S. The court, however, said that although the deduction was questionable from the tax point of view, it did not destroy the tenant's primary residence. Moreover, although a substantial amount of space in Apartment 5S was devoted to art work and storage of art supplies, the apartment had some residential use. Specifically, although the tenant's bedroom was at Apartment 5N, Apartment 5S contained most of the tenant's clothes (he did not have sufficient room for them at 5N) and some exercise equipment. The court stated that even though each apartment was an incomplete residence in itself, they could be combined to constitute a single primary residence. 9554 NY Apt. Assocs. v. Hennessy, 184 Misc.2d 527, N.Y.L.J. 707 N.Y.S.2d 794 (Civ.Ct. New York Co. 2000).

¶ 49. Where the lease contains a clause in which both parties waive a jury trial in any proceeding brought by either party against the other (except for personal injury cases), the jury waiver will apply to a non-primary residence case brought by the landlord against the tenant. Stribula v. Quinn, N.Y.L.J., June 21, 2000, page 30, col. 4 (Civ.Ct. New York Co).

¶ 50. The statute states that buildings receiving the benefits of Admin. Code Secs. 26-243 and 26-244 remain stabilized until the first vacancy following the expiration of tax benefits, except that if the lease and renewal leases, of the tenant in occupancy at the time of expiration of benefits, provides notice, in at least 12 point type, that the apartment is subject to deregulation upon expiration of tax benefits and states the approximate date on which deregulation will occur, the apartment can be deregulated. In one case, however, the tenant took occupancy of the premises at a time when they were not subject to rent regulation at all, because the owner had not yet applied for tax benefits. Thus, the original lease did not give notice that the unit would become deregulated upon expiration of tax benefits, and the owner was, of course, not required to give such notice. However, even after the owner applied for tax benefits, the subsequent leases did not give the tenant notice that the apartment would become deregulated upon expiration of tax benefits. The court had to decide whether the apartment was now subject to deregulation, and answered the question in the negative. The landlord unsuccessfully argued that under the rules governing renewal leases, it could not lawfully insert the 12-point notice, because this would run afoul of rules prohibiting changes in the terms and conditions of the tenancy. The Rent Stabilization Code permits the owner to change the terms of a lease in order to comply with a specific law or regulation. The purpose of the "same terms and conditions" rule was to protect the tenants, the court said. The insertion of the notice actually provided more protection for the tenant, since the tenant was warned that the tax benefits would eventually expire and that the apartment would then become deregulated. Spaeda v. Bakirtjy, N.Y.L.J., Apr. 19, 2000, page 27, col. 6 (Civ.Ct. New York Co.).

¶ 51. A court refused to enforce an agreement between a landlord and tenant under which the landlord waived the right to object to the tenant's occupancy on the grounds of non-primary residence. A tenant who does not in fact maintain the apartment as a primary residence is not entitled to protection under the rent regulation laws. Rocky 116,

L.L.C. v Weston, 186 Misc.2d 251, 717 N.Y.S.2d 823 (App.Term 1st Dept. 2000), 284 A.D.2d 139, 726 N.Y.S.2d 94 (1st Dept. 2001).

¶ 52. In one case, a tenant moved into the apartment in 1973. At that time, the apartment was under vacancy decontrol. It later came under rent stabilization by virtue of the Emergency Tenant Protection Act of 1974. In 1999, the owner served a notice of intention not to renew the lease on the ground that the landlord sought the apartment for use by himself or by a member of his immediate family. The tenant contended that because he had occupied the apartment for twenty years or more, he could not be evicted on the grounds of owner occupancy. The landlord sought to invoke the Rent Stabilization Code, which does not prohibit the eviction on owner occupancy grounds of tenants who have been on the premises for twenty years. The tenant, on the other hand, sought to invoke the Emergency Tenant Protection Regulations, which did contain a twenty-year rule. The court held that in this case, the Rent Stabilization Code and Tenant Protection Regulations could both be applicable to the tenancy, and that the tenant could properly invoke the twenty year rule contained in the Emergency Tenant Regulations. Thus, the tenant obtained the additional protection and avoided the owner occupancy eviction. Rosenfeld v. Hall, N.Y.L.J., Aug. 16, 2000, page 23, col. 3 (Civ.Ct. New York Co.).

¶ 53. A landlord presented a tenant with a notice of intention not to renew the lease, claiming that the tenant did not occupy the apartment as a primary residence. In response, the tenant complained to DHCR about the landlord's failure to offer a renewal lease. DHCR then issued an order giving the landlord 30 days to commence a non-primary residence proceeding in court, and providing that if the proceeding was not commenced within this period of time, the landlord was required to offer the tenant a renewal lease. When the landlord later brought a non-primary residence in court, the tenant sought dismissal on the ground that the proceeding had been brought past the 30-day deadline imposed by DHCR. The court, however, held that since the statute provides that questions of primary residence are to be decided by a court of competent jurisdiction, DHCR had no jurisdiction to issue orders relating to primary residence questions. Thus, so long as the landlord otherwise complied with procedures governing non-primary residence, the failure to meet DHCR's 30-day deadline did not require dismissal of the non-primary residence proceeding. Central Living LLC v. Payton, N.Y.L.J., Mar. 21, 2001, page 19, col. 3 (Civ.Ct. New York Co.).

¶ 54. A landlord brought a holdover proceeding to acquire possession of an apartment on the ground that he needed the apartment for a member of his family. Under Rent Stabilization Code Sec. 2524.4(a)(2), where a tenant or the spouse of a tenant is disabled, the owner must, in order to recover possession, offer the tenant an equivalent or superior housing accommodation to the unit being recovered. A court has held where the tenant's gay life partner is suffering from a disabling disease (in this case, amyotrohic lateral sclerosis, or Lou Gehrig Disease), the gay life partner is the equivalent of a "spouse," so that the landlord cannot evict the tenant and his partner without offering substitute accommodations. Knafo v. Ching, N.Y.L.J., Dec. 6, 2000, page 28, col. 2 (Civ.Ct. New York Co.).

¶ 55. LL cannot contract away right to claim non-primary residence. Tenants who retain rent stabilized apts even though live elsewhere are not within the class of people that RS laws were designed to protect. Park Towers Co. v. Universal Attractions, 274 A.D.2d 312, 710 N.Y.S.2d 571 (1st Dept. 2000).

¶ 56. A landlord prevailed in a primary residence proceeding by virtue of evidence obtained through a video surveillance camera which had been installed opposite the entry door of the tenant's apartment. The tapes showed that the tenant visited the apartment only sporadically, and stayed overnight only seven times in a fifteen month period. Moreover, for much of that time, the apartment was occupied by another person. In addition, the evidence showed that the tenant spent large amounts of time with her parents in Florida, where she worked as a musician, and that when she was in New York, she often stayed with a friend and had luggage and dry cleaning delivered to her friend's address. Emel Realty v. Carey, aff'd 288 A.D.2d 163, 733 N.Y.S.2d 188 (1st Dept. 2001).

¶ 57. A lease clause under which the landlord waives the right to claim that the tenant does not maintain the apartment as a primary residence, is legally unenforceable. The rationale is that tenants who retain rent stabilized apartments even though they live elsewhere are not within the class of people that the rent stabilization laws were

designed to protect. Park Towers Co. v. Universal Attractions, 274 A.D.2d 312, 710 N.Y.S.2d 571 (1st Dept. 2000). See also, Rima 106 L.P. v. Alvarez, 257 A.D.2d 201, 690 N.Y.S.2d 40 (1st Dept. 1999).

¶ 58. Apparently, the tenant's failure to produce income tax returns in a primary residence case may result in a negative inference that the tax returns would have shown an address other than the subject's apartment. See e.g., 89 East 3rd Street Tenants Assn v. Lamotta, 2001 WL 1682424 (App.Term 1st Dept.). On the other hand, it is still the law that the filing of an income tax return listing the subject apartment as the address is not an absolute prerequisite to a finding of primary residence. The tenant may prevail if the other factor (e.g. voter registration and utility bills) support the tenant's claim of primary residence. 812 Realty v. Otero, 2001 WL 1470305 (App.Term 1st Dept.).

¶ 59. In one case, the court had to decide whether the tenant, who occupied a second floor loft unit, also utilized the third floor as his primary residence. The tenant unlawfully subleased the self-contained third floor space to a friend/business associate for several years without the landlord's prior written consent. The tenant resided in the second floor unit, from which he and his friend also conducted a real estate business. The loft units were divided by an interior circular stairway and hatch door installed by the tenant. Each unit had a separate entrance, kitchen, bathroom, and electric metering. Moreover, each unit had a separate lease. Furthermore, the friend's driver's license listed only the third floor unit as his residence. Under these facts, the court held that the tenant and his friend were not roommates of the third floor unit, and that the tenant did not maintain the third floor unit as a primary residence. Florencia Properties NV, Inc. v. Wertheim, 2002 WL 221073 (App.Term 1st Dept.).

¶ 60. Where a lease to a corporate tenant does not name the individual who is to occupy the apartment, the corporation is not deemed to hold the apartment as a primary residence. 501 East 87th Street Realty Co. LLC v. Ole Pa Enterprises, N.Y.L.J., May 22, 2002, page 19, col. 2 (Sup.Ct. New York Co.); Herald Towers v. Jeet International, N.Y.L.J., Jan 24, 2002, page 19, col. 4 (App.Term 1st Dept.). Moreover, a person who subleases the apartment from the corporation fares no better than the corporation would have fared, and will not prevail in a primary residence proceeding. See 501 East 87th Street, supra.

¶ 61. In one case involving a "snowbird" tenant (the word "snowbird" appears in the opinion), the tenant prevailed in a primary residence proceeding where she voted in New York, kept many of her possessions in the apartment, even though she did not file New York City income taxes and obtained a Florida homestead exemption. Glenbriar Co. v. Lipsman, N.Y.L.J., May 5, 2002, page 21, col. 4 (App.Term 1st Dept.).

¶ 62. A tenant who spent considerable time in Michigan to care for his ailing mother (who is now deceased) did not lose his primary residence in the Manhattan apartment. The court noted that the tenant visited New York frequently, maintained a bank account in New York, maintained furnishings in the apartment, and voted in New York by means of an absentee ballot. Kalimian v. Holmberg, N.Y.L.J., Sept. 20, 2001, page 19, col. 5 (App.Term 1st Dept.).

¶ 63. The pendency of a holdover proceeding based upon an unlawful sublease, is not a bar to the commencement of a non-primary residence proceeding. Pagano v. Cohen, N.Y.L.J., Nov. 29, 2001, page 23, col. 4 (App.Term 2d & 11th Judic. Dists.).

¶ 64. A tenant successfully defended a non-primary residence proceeding even though she had spent considerable time at her (now estranged) husband's home in England. The tenant had listed the apartment on important documents such as drivers' licenses, credit card statements and voter registrations. The Civil Court was justified in finding that the couple maintained separate primary residences, particularly because the tenant visited the English residence with only a single suitcase, and kept all her furniture and personal belongings in and regularly returned to the subject's apartment. W.S.L.D.J. & I. Weinreb v. Martin, N.Y.L.J., Nov. 20, 2002, page 21, col. 1 (App.Term 1st Dept.).

¶ 65. An application for recovery of a unit for personal use must be made on good faith. This requires a showing that the owner or a member of the immediate family has an actual intent to take occupancy of the unit. In one case, where a tenant successfully defended an owner occupancy, the court cited the landlord's misrepresentations to the court

regarding the nature of his current living space, the landlord's prior unsuccessful owner occupancy proceedings against other tenants (an administrative agency had found that the landlord was not in good faith), the landlord's prior unsuccessful attempt to remove this tenant based on a frivolous claim that the apartment was not rent regulated, and the long history of animosity between the landlord and the tenant. Garner v. Berger, N.Y.L.J., July 15, 2002, page 20, col. 3 (Civ.Ct. New York Co.).

¶ 66. In order for the landlord to acquire the a loft unit for his own use or the use of an immediate family member, the proposed occupant must be one who would legally be permitted to occupy the apartment. Thus, if the zoning regulations on lofts permit residential use only by certified artists, and the landlord's brother and nephew (the proposed occupants) are not certified artists, the landlord may not maintain the owner occupancy proceeding. Schwartz v. Seidman Oct. 1, 2003, at 18, col. 1 (Civ.Ct. New York Co.).

¶ 67. In one owner occupancy case, the tenants prevailed because the landlord was unable to demonstrate a good faith need for the apartment. The landlord had claimed that he needed the subject apartment in order to provide room for his elderly parents. The landlord's claim failed for several reasons. First, the parents already had an apartment in the building, about the same size as that of the tenant. Second, the landlord's claim that a second bedroom was required to provide for a "live in" caretaker for the parents was negated by evidence that a back room in the parents' own apartment-of the same or larger dimension-was equally adaptable or suitable for that purpose. Third, given the physical configuration of the tenants' apartment, with its network of interior steps separating the various rooms, and the nature of the parents' disabilities, the court found that it would not have made sense to relocate the parents to the tenants' space. Raffo v. McIntosh, 2004 WL 906582 (Apr.12, 2004) (App.Term 1st Dept.).

¶ 68. In one case, the tenant and her family of ten were forced to vacate the subject apartment due to a fire. After spending some months in a shelter, the tenants resolved the situation, at least temporarily, by purchasing a one-family home in the area under U.S. Dept. of Housing and Urban Development (HUD) guidelines. Approval of her mortgage was contingent upon her occupying the premises as her primary residence for at least one year. During that year period, the landlord of the subject apartment brought a holdover proceeding against her, claiming that the tenant no longer occupied the apartment as a primary residence. The tenant maintained that her intention was to return to the apartment once it was habitable. The court dismissed the holdover proceeding as premature. The fact of tenant's temporary relocation to another dwelling place, and the tenant's purchase of a house under conditions requiring primary residence there for a limited period, do not in themselves require a finding of primary residence. Since the subject apartment had not yet been restored to a habitable condition, the court dismissed held that the commencement of a summary holdover proceeding was premature. Corona Apts. v. Benitez, 1 Misc.3d 79, 769 N.Y.S.2d 349 (App.Term 2d & 11th Judic. Dists. 2003)

¶ 69. The fact that an apartment was rent regulated by reason of the "J-51" program (now contained in Admin. Code §11-243) does not preclude the landlord from commencing an owner occupancy proceeding. Ellis v. Epstein, N.Y.L.J., July 17, 2003, at 18, col. 1 (App.Term 1st Dept.).

¶ 70. The so-called snowbirds, who travel to Florida (or other states with warm climates) for the coldest months of the year, have, in some cases, been successful in defeating primary residence proceedings, so long as they retain a substantial nexus with the City and with the subject apartment. In one case, the court considered the following factors in the tenants' favor: (1) the tenants have resided at the subject apartment since 1959; (2) the tenants have never subleased; (3) all year long, the apartment contains important personal items such as clothing, china and photograph albums; (4) the wife uses the apartment as her address for purposes of receiving Social Security benefits; the couple has several bank accounts in New York; (5) the couple uses the subject apartment for voting purposes. Thus, even though the couple spends six months a year in Florida due to the husband's health problems, and even though the couple filed tax returns from Florida, and even though they had a telephone and cable television service only in Florida, they were found to have maintained the apartment as a primary residence. The court considered the total history of the occupancy, and stated that a finding of non-primary residence would have had a devastating effect upon the tenants and members of their family. Glenbriar Co. v. Lipsman, 11 A.D.3d 352, 783 N.Y.S.2d 546 (1st Dept. 2004).

In another case in which the tenant prevailed, the fact that the tenant spent considerable time in Florida caring for his ailing mother did not cause the tenant to lose the primary residence in the New York apartment. The tenant had no ownership interest in his mother's Florida apartment, and slept on a sofa bed in the living room during his stays there.

On the other hand, in 85th St. Columbus Corp. v. Furmansky, 7-21-04, page 18, col. 1 (Civ.Ct. New York Co.), the landlord prevailed. The tenant spent most of the year, and not just the winter months, in Florida. Moreover, the tenant's claim that he was present in Florida to assist his ailing mother was not credible, where the tenant's Florida residence was about 25 miles from his mother's home in Florida, the mother lived in a community that has a physician on site, and the tenant was vague as to what he did to assist his mother.

¶ 71. In an owner occupancy case, the tenant prevailed, where the applicable only persons who could lawfully occupy the premises no go because landlord was not certified artist and occupancy would be illegal. Kamen v. Buchanan, 5 Misc.3d 252, 783 N.Y.S.2d 252 (Civ.Ct. New York Co. 2004).

¶ 72. In Croman v. Leighton, N.Y.L.J., 7-21-04, page 18, col. 3 (Civ.Ct. New York Co.). A landlord sent a notice of intention not to renew the lease, in order to acquire the premises for his own use. The tenant responded that he is a senior citizen. Once the landlord is aware of senior citizen status, the landlord has an obligation to offer the tenant alternative housing before the litigation is commenced. The landlord must plead and prove that such alternative housing was offered. The landlord cannot belatedly, during the litigation, offer alternative housing. Thus, the tenant was able to retain the apartment, at least until the next lease expired.

¶ 73. An occupant who has never been a named tenant can, under certain circumstances, qualify as a "tenant" for purposes of the primary residence rule. The occupant showed, by the tenant's unrebutted testimony, that a prior owner or managing agent affirmatively recognized the occupant as the tenant about ten years before the time of trial. Moreover, the court found that the continued use of the name of the tenant of record was for the administrative convenience of the prior landlord, and that the landlord knew that the named tenant was moving out of the premises and that the occupant would remain. Johny v. Tolbert, 2005 WL 1592939 (App.Term 2d & 11th Judicial Dists.).

¶ 74. Where a tenant's own mental and substance abuse problems caused him to develop a dislike for the apartment and to live outside the apartment as a de facto homeless person (he even filed an application for public housing claiming that he was homeless), the court held that the tenant ceased to maintain the apartment as a primary residence. So long as the landlord proved that the tenant did not maintain the subject apartment as a primary residence, it was not necessary for the landlord to prove that the tenant lived at any other particular residence. Toa Construction v. Tsitseres, 9 Misc.3d 469, 798 N.Y.S.2d 674 (Civ.Ct. New York Co. 2005).

¶ 75. A tenant prevailed in a primary residence case even though certain tax-related documents showed an upstate residence as being the tenant's home. The New York state tax returns, even though they contained an upstate address for the tenant, also indicated that the tenant was a full-year resident of New York City and paid New York City income tax on all of her income. 310 East 23rd LLC v. Colvin, 41 A.D.3d 149, 837 N.Y.S.2d 134 (1st Dept. 2007).

¶ 76. In one primary residence case, the landlord prevailed. The subject apartment, in Greenwich Village, was only 450 square feet. The tenant moved in when she was single. She later married and had a son. The tenant's husband worked for Metropolitan Life and obtained an apartment in Stuyvesant Town through a Met Life executive (Met Life owned Stuyvesant Town at that time). The husband wrote a letter to the Met life executive thanking him for his efforts, and said that he had gone to Stuyvesant Town to obtain a better quality of life. The letter also said that his prior living in a small Village apartment with a two-year-old son was "very interesting." More than 10 years later, when confronted by the landlord, the wife claimed that her primary residence was at the Village apartment even though her husband and son lived in Stuyvesant Town. The husband and wife claimed that they had been separate and apart due to marital problems, but there was no separation agreement or divorce action. The wife admitted that she had often stayed at the Stuyvesant Town apartment to be with her son, or during periods of "reconciliation" with her husband. The court did not accept the wife's depiction of a "rocky relationship." Husband and wife had a joint account in which both their paychecks were

deposited. The husband paid all the couple's bills, including rent and utilities for both apartments. Moreover, credit card bills for both parties were mailed to the husband at the Stuyvesant Town address. Furthermore, the utility bills for the Village apartment were negligible. Finally, the court noted that the tenant had failed to call her son as a witness (he was now 15 years old) as to where he resided, and made an adverse inference against the tenant. Carmine, Ltd. v. Gordon, 41 A.D.3d 196, 837 N.Y.S.2d 146 (1st Dept. 2007).

¶ 77. Rent stabilization coverage is a matter of statute, and the parties cannot, by agreement, create rent stabilization coverage where no coverage exists. Thus, a stipulation entered into between landlord and tenant to treat the apartment as rent stabilized does not confer protection under the Rent Stabilization Laws for accommodations occupied as a cooperative corporation or occupied for charitable purposes. The stipulation is enforceable only to the extent that it sets the rental amount and only for the duration of any lease signed by the parties. 546 West 156th St. HDFC v. Smalls, 43 A.D.3d 7, 839 N.Y.S.2d 62 (1st Dept. 2007).

¶ 78. A British citizen who is in the United States on a B-2 tourist visa must maintain a permanent residence in the United Kingdom and cannot possibly use an apartment as a primary residence. Katz Park Avenue Corp. v. Jagger, 46 AD2d 186, 843 N.Y.S.2d 329 (1st Dept. 2007)(point of interest-tenant is the former wife of rocker Mick Jagger of the Rolling Stones).

¶ 79. A tenant cannot "cure" non-primary residency, by belatedly establishing residence in the apartment and paying New York City Income Tax, after the landlord's service upon him or her of a notice of renewal on the ground of non-primary residency. 1234 Broadway, LLC v. Jing Wu Chen, 2008 NY Slip Op. 51249U, 2008 N.Y. Misc. Lexis 3562 (Civ.Ct. New York Co.).

¶ 80. Although the owner occupancy law permits only one owner to recover possession of the apartment for his or her own use, a petition which recites more than one owner seeking possession may be amended to allege a single owner seeking possession. Lu v. Alian, 2008 N.Y. Misc. Lexis 4005, 239 N.Y.L.J. 122 (Sup.Ct. Kings Co.).

¶ 81. An owner occupancy proceeding was brought by a purported owner who held an unrecorded deed (she was involved in a divorce proceeding, and for some reason, her accountant or attorney advised her not to record the deed). Moreover, although petitioner claimed that she intended to move from a house in Tuxedo, New York to the subject apartment in Brooklyn, she had made no effort to sell the Tuxedo house. As a result, the court held that she had not established the good faith required to maintain an owner occupancy proceeding. Accordingly, the owner occupancy proceeding was dismissed. Nealis v. Szpilowski, 2008 N.Y. Slip Op. 51311U, 2008 N.Y. Misc. Lexis 3844 (Civ. Ct. Kings Co.).

¶ 82. In Norfolk Development LLC v. Kee, 23 Misc.3d 136(A), 2009 WL 1212273 (App.Term 1st Dept.), a primary residence case, the Appellate Term reversed an order granting summary judgment to the tenant, and found that there were triable issues of fact. The evidence showed that the tenant spent at least three days a week at another apartment (where her then boy friend resided), maintained a "study space" or studio at the other apartment and at times received her mail and kept her dog there. Furthermore, the tenant allowed a friend to stay at the subject apartment at least occasionally.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-504.1

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-504.1 Exclusion of accommodations of high income renters.

Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income in excess of one hundred seventy-five thousand dollars per annum for each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter; and (2) have a legal regulated rent of two thousand dollars or more per month. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

HISTORICAL NOTE

Section amended chap 116/1997 § 14, eff. Jan. 1, 1998.

Section amended L.L. 4/1994 § 3, eff. Mar. 30, 1994.

Section added ch. 253/1993 § 6, eff. July 7, 1993.

CASE NOTES

¶ 1. Classic Residences v. New York State Division of Housing and Community Renewal, 212 A.D.2d 418, 622

N.Y.S.2d 693 (1st Dept. 1995). A widowed tenant who was uncertain whether the income of her recently deceased husband's estate should be included in her income as tenant, was permitted to submit a corrected form. Since the corrected form did not concede that the tenant's income was in excess of the threshold amount for an administrative order of deregulation, DHCR was not required to issue an order of deregulation, or do so within the statutory 30 days for uncontested certifications, and was therefore not subject to mandamus to compel issuance of a deregulation order.

¶ 2. Where a formerly rent controlled apartment comes under rent stabilization but the intial legal regulated rent under rent stabilization is over $2,000 per month, the apartment will be deregulated. Central Park South Associates v. Haynes, 654 N.Y.S.2d 967 (Civ.Ct. New York Co. 1996).

¶ 3. See Katz 737 Corp. v. Bernstein, N.Y.L.J., May 18, 2001, page 18, col. 2 (App.Term 1st Dept.), reported under Administrative Code § 26-504.3.

¶ 4. Tribeca M. Corp. v. Haller, N.Y.L.J., Sept. 17, 2003, at 20, col. 3 (Civ.Ct. New York Co.). The landlord sought luxury deregulation of several units whose rents were over $2,000 per month. For an apartment to be deregulated, the tenant must have moved into a previously regulated and now vacant unit (after July 7, 1993) and must have been paying legal regulated rent of $2,000 or more. The three tenants moved in after that date and were each paying rents over $2,000 per month. However, since none of the apartments were ever registered with DHCR, the court held that there were no legal regulated rents. Thus, there could be no vacancy deregulation.

¶ 5. In a luxury, decontrol proceeding, the landlord sought to obtain the tenant's social security number. However, the court held that, since the tax law prohibits the use of tax information for non-tax purposes, the landlord cannot obtain the tenant's social security number. Meyerson v. Prime Realty Services, LLC, 2005 WL 497266 (Sup.Ct. New York Co.).

¶ 6. The operative date for considering whose income will be included when determining the total annual income is the date when the income certification form is served on the tenant. Thus, even if the tenant's husband did not reside in the apartment during the two years prior to the service of the income certification form, the husband's income is includible where he did reside in the apartment as of the time of service of the form. In re Doyle v. Calogero 2008 NY Slip Op. 5013, 2008 NY App. Div. Lexis 4860, 859 N.Y.S.2d 178 (App. Div. 1st Dept.).

¶ 7. Where a landlord chooses to take advantage of the J-51 tax abatement program (Admin. Code §11-243, all rent stabilized apartments in the building are exempt from luxury decontrol. The landlord unsuccessfully argued that the exemption from luxury decontrol applied only to those apartments which became stabilized solely by reason of the landlord's participation in the J-51 plan. Roberts v. Tishman Speyer Properties, 62 A.D.3d 71, 874 N.Y.S.2d 97 (1st Dept. 2009).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-504.2

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-504.2 Exclusion of high rent accommodations.

a. "Housing accommodations" shall not include any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven and where at the time the tenant vacated such housing accommodation the legal regulated rent was two thousand dollars or more per month, or any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 with a legal regulated rent of two thousand dollars or more per month. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand dollars a month. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law. This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

b. The owner of any housing accommodation that is not subject to this law pursuant to the provisions of subdivision a of this section or subparagraph k of paragraph 2 of subdivision e of section 26-403 of this code shall give written notice certified by such owner to the first tenant of that housing accommodation after such housing

accommodation becomes exempt from the provisions of this law or the city rent and rehabilitation law. Such notice shall contain the last regulated rent, the reason that such housing accommodation is not subject to this law or the city rent and rehabilitation law, a calculation of how either the rental amount charged when there is no lease or the rental amount provided for in the lease has been derived so as to reach two thousand dollars or more per month, a statement that the last legal regulated rent or the maximum rent may be verified by the tenant by contacting the state division of housing and community renewal, or any successor thereto, and the address and telephone number of such agency, or any successor thereto. Such notice shall be sent by certified mail within thirty days after the tenancy commences or after the signing of the lease by both parties, whichever occurs first or shall be delivered to the tenant at the signing of the lease. In addition, the owner shall send and certify to the tenant a copy of the registration statement for such housing accommodation filed with the state division of housing and community renewal indicating that such housing accommodation became exempt from the provisions of this law or the city rent and rehabilitation law, which form shall include the last regulated rent, and shall be sent to the tenant within thirty days after the tenancy commences or the filing of such registration, whichever occurs later.

HISTORICAL NOTE

Section amended chap 116/1997 § 15, eff. June 19, 1997 and applying to housing accommodations

vacant on or after June 19, 1997.

Section amended L.L. 13/1997 § 3, eff. Mar. 31, 1997.

Section amended L.L. 4/1994 § 4, eff. Mar. 30, 1994.

Section added ch. 253/1993 § 6, eff. July 7, 1993.

Subd. a amended chap 82/2003 § 4, eff. June 20, 2003.

Subd. a designated L.L. 12/2000 § 2, eff. Apr. 27, 2000.

Subd. b added L.L. 12/2000 § 2, eff. Apr. 27, 2000.

CASE NOTES

¶ 1. A hotel unit becomes deregulated where there has been no permanent tenant of the unit for four years prior to the present tenant's filing of a rent overcharge, and the last rent paid by the prior occupant was more than $2000 per month. Martha Washington Hotel v. Prince, N.Y.L.J., May 5, 1999, page 29, col. 6 (Civ.Ct. New York Co.).

¶ 2. If the "first rent," i.e. the legal regulated rent, for the first rent stabilized tenant is $2,000 or more, that tenant is still protected by rent stabilization. Assuming that the tenant does not reach the $175,000 income threshold, the apartment will continue to be stabilized until he or she vacates the apartment. A landlord unsuccessfully argued that under the words of the statute, an apartment was not covered by rent stabilization where the "legal regulated rent" was more than $2,000. The court interpreted the phrase "legal regulated rent" to mean an apartment already covered by stabilization when the tenant moved in. Thus, since the prior tenant (who had been under rent control) had a rent far less than $2,000 per month, the new tenant was entitled to rent stabilization protection. 111 on 11 Realty Corp. v. Norton, 189 Misc.2d 389 (Civ.Ct. Kings Co. 2001).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-504.3

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-504.3 High income rent decontrol.

(a) For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons whose names are recited as the tenant or co-tenant on a lease who occupy the housing accommodation and all other persons that occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the tenant or co-tenant recited on the lease who will reoccupy the housing accommodation upon the expiration of the sublease shall be considered.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent is two thousand dollars or more per month may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a legal regulated rent of two thousand dollars or more per month are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required

to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of one hundred seventy-five thousand dollars in each such year, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds one hundred seventy-five thousand dollars in each of the two preceding calendar years. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants named on the lease that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds one hundred seventy-five thousand dollars in each such year. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodation shall not be subject to the provisions of this law.

2. If the department of taxation and finance determines that the total annual income is in excess of one hundred seventy-five thousand dollars in each of the two preceding calendar years, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to section 26-504.1 of this code.

(e) Upon receipt of such order of decontrol pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

HISTORICAL NOTE

Section added ch. 253/1993 § 7, eff. July 7, 1993.

Subd. (b) amended chap 116/1997 § 16, eff. Jan. 1, 1998.

Subd. (b) amended L.L. 4/1994 § 5, eff. Mar. 30, 1994.

Subd. (c) pars 1, 2 amended chap 116/1997 § 16, eff. Jan. 1, 1998.

Subd. (e) added chap 116/1997 § 17-b, eff. June 19, 1997.

CASE NOTES

¶ 1. The court rejected a constitutional challenge to the statute. The the $250,000 income threshold set forth in the law is based on the federal adjusted gross income. Petitioner contended that the law improperly favored persons who had income from such items as tax free municipal bonds, which are not includible in federal adjusted gross income, whereas persons with other types of income were not entitled to the same exclusion. The court, however, held that the statute had a rational basis and was not arbitrary. Leepson v. Holland, N.Y.L.J., Dec. 18, 1996, page 26, col. 6 (Sup. Ct. New York Co).

¶ 2. A stipulation of settlement which gives the tenant rights under rent stabilization does not create a life estate in the premises. The right to rent stabilized renewal leases is not absolute, and the landlord can still seek high income vacancy deregulation of the apartment. Blum v. Graceton Estates, 228 A.D.2d 274, 644 N.Y.S.2d 35 (App.Div. 1st Dept. 1996).

¶ 3. Where a tenant fails to respond to the landlord's petition for high income deregulation of the apartment within the statutory 60 day period, the court can nevertheless excuse the tenant's default and direct the rent agency to determine, on the merits, the question of whether the tenant's income meets the threshold for deregulation. Matter of Elkin v. Roldan, N.Y.L.J., Sept. 12, 1997, page 26, col. 4 (Sup.Ct. New York Co.). See also Dinnerstein v. New York State Division of Housing and Community Renewal, Sup.Ct. New York Co., Justice Parness, 114671-96.

¶ 4. If a tenant sends the required forms to his attorney within the 60 days specified in the statute, but the attorney neglects to send the documents to DHCR before the deadline, the tenant will face deregulation of the apartment, and his remedy is a malpractice action against the attorney who made the mistake. Helman v. DHCR., N.Y.L.J., Mar. 24, 1999, page 27, col. 5 (Sup.Ct. New York Co.).

¶ 5. The courts originally appeared to be strict in enforcing the 60 day deadline for presenting the required income information to DHCR. In recent cases, however, the courts have saved some tenants from deregulation of their apartments even though they were somewhat late in sending back the required information. Where a tenant fails to respond at all to DHCR's notice, and DHCR issues an order deregulating the apartment before the tenant has taken any action, then the apartment will be deregulated. Sudarsky v. DHCR, 685 N.Y.S.2d 704 (App.Div. 1st Dept. 1999); Pledge v. DHCR, 683 N.Y.S.2d 76 (1st Dept. 1999); Londin v. DHCR, 687 N.Y.S.2d 111 (App.Div. 1st Dept. 1999); Nick v. DHCR, 244 A.D.2d 299, 664 N.Y.S.2d 777 (1st Dept. 1997), Dowling v. Holland, 666 N.Y.S.2d 585 (1st Dept. 1997) and Barbaz v. DHCR 246 A.D.2d 388, 667 N.Y.S.2d 720 (1st Dept. 1998). However, in Elkin v. Roldan, 688 N.Y.S.2d 61 (App.Div. 1st Dept. 1999), where the tenant sent back form only 10 days late, and DHCR did not come up with order of deregulation until ten months later, and the tenant in fact had income below the threshold level, the court held that the tenant's default was excusable, and his response was deemed to be timely. See Seymour v. DHCR, N.Y.L.J., May 13, 1999, page 27, col. 5 (App.Div. 1st Dept.), which is in accord with Elkin. In Shapiro v. DHCR, N.Y.L.J., June 7, 1999, page 26, col. 2 (App.Div. 1st Dept.), where the tenant issued timely responses in connection with the landlord's first year proceeding, but during the second year allegedly missed the mailing deadline on the form by three days, the court found for the tenant and directed DHCR to dispose of the case based on actual verification of

income.

¶ 6. Where DHCR income certification forms stated that service of forms by ordinary mail was permitted. When the agency declared an apartment to be deregulated by reason of the tenant's failure to return the form within the statutory 60 day period, the tenant brought an Article 78 proceeding. The court found for the tenant, holding that it was unreasonable for the agency to belatedly impose a requirement that the tenant submit documentary proof of mailing such as a Post Office certificate of mailing of certified mail. Thus, the agency had to give fair consideration to the tenant's affidavit, which indicated that the form had been filed on a timely basis. Alshooler v. New York State Division of Housing and Community Renewal, N.Y.L.J., Nov. 12, 1998, page 26, col. 2 (Sup.Ct. New York Co.).

¶ 7. The deregulation law applies where two units were combined to form one integrated unit and the occupants of that unit had an aggregate monthly rental in excess of the threshold amount. Since petitioners failed to timely submit a proper verification statement of their total adjusted gross income for the subject period, DHCR was mandated to isse the deregulation order. This practice does not violate due process or equal protection. It was not a due process violation because there was notice and a reasonable opportunity to be heard. Moreover, there was no violation of equal protection because the Code provision was reasonably related to the legislative scheme underlying rent regulation. Nick v. DHCR, 244 A.D.2d 299, 664 N.Y.S.2d 777 (App.Div. 1st Dept. 1997).

¶ 8. The high income deregulation provisions appear to have a major loophole. It has been held that the law will not apply to corporate tenants. Thus, even if a corporation owned by a tenant (rather than the tenant individually) makes more than the threshold amount, the individual tenant cannot be evicted. Nestor v. DHCR, N.Y.L.J., Jan. 15, 1998, at 28, col. 6 (Sny, Mc Mahon), aff'd N.Y.L.J., Jan. 11, 1999, page 28, col. 2 (App.Div. 1st Dept.), aff'd 257 A.D.2d 395, 683 N.Y.S.2d 74, motion for leave to appeal denied, 93 N.Y.2d 982, 695 N.Y.S.2d 740 (1999). Apparently, even if an individual uses a corporation as his alter ego, the income cannot be considered for purposes of the regulation law.

¶ 9. In one case, a tenant responded in a timely manner to the landlord's demand for income figures by filling out an income certification form. DHCR then sent a notice for income verification, informing the tenant that a response was due within 60 days. The court held that where the tenant was 11 days late in responding to the DHCR notice but served the response before DHCR issued a decision deregulating the apartment, and the landlord did not suffer any prejudice by reason of the delay, the tenant was entitled to retain the rent stabilized apartment. In other words, if the tenant never responds at all to the DHCR notice before DHCR deregulates the apartment, DHCR's order of deregulation will be sustained, but if the tenant is slightly late but acts before DHCR deregulates the apartment, the tenant will not lose rent stabilization status. Dworman v. DHCR, 99 Westlaw 276234 (App.Div. 1st Dept.).

¶ 10. In several cases, the courts had to deal with situations in which the tenant failed to return the required income verification information within the 60-day period set forth in the statute. Some courts allowed tenants to submit the information past the deadline while other cases held the tenants strictly to the statutory deadline. A series on consolidated cases (Dworman v. DHCR, Sudarsky v. DHCR and Seymour v. DHCR) reached the Court of Appeals, which held that under certain circumstances, a tenant's late filing can be excused. In Dworman, the tenant filed the required information only 11 days late and had been on a long vacation in Europe when the agency's request for income verification reached his residence. In Sudarsky, the tenant allegedly was suffering from a clinical depression at the time in question, and the tenant's wife, a concert pianist, was on tour; the tenant did respond, although he mistakenly sent the information to the landlord rather than to DHCR. In Dworman and Sudarsky, the court remanded the cases to DHCR for a hearing as to whether there was good cause for the tenants' lateness; if so, then DHCR had discretion to excuse the tenant's lateness. However, in Seymour, where the tenant failed to respond for five months and had no excuse, the court upheld DHCR's determination that the subject apartment had become deregulated. Dworman v. DHCR, 94 N.Y.2d 359, 704 N.Y.S.2d 192 (1999).

¶ 11. In Elkin v. Roldan 94 N.Y.2d 853, 704 N.Y.S.2d 201 (1999), the court heard the consolidated appeals in Elkin and Shapiro v. DHCR. In Elkin, postmarks showed that the required information was mailed 10 days late, although the tenant's office manager insisted that she mailed the item four days before the deadline. In Shapiro, the

response was metered four days before the deadline but postmarked three days after the deadline. The court remanded these cases to DHCR for a determination as to whether the delays were de minimis and thus excusable.

¶ 12. A landlord and tenant entered into a lease for professional purposes only, and agreed to a rental ($2,600 per month) which was substantially above the then applicable legal regulated rent. During the term of that lease, the landlord obtained an order of deregulation from DHCR upon tenant's default in a high income rent deregulation proceeding. The landlord subsequently commenced a holdover proceeding based on the order of deregulation and upon the tenant's refusal to execute a free market renewal lease at a monthly rent of $8,000. The court, however, held that since at the time of the landlord's application to DHCR for an order of deregulation, the premises were rented solely for commercial purposes, there was no legal basis for the application. Hence, the court dismissed the landlord's petition, holding that the landlord's rights, if any, arose out of the prior commercial lease, not out of the order of deregulation. Katz 737 Corp. v. Bernstein, N.Y.L.J., May 18, 2001, page 18, col. 2 (App.Term 1st Dept.).

¶ 13. In one case, when DHCR sent a request to the Department of Taxation and Finance (DTF) for income verification, DTF sent back a statement that there was "no match" under the tenant's name. The court, however, held that DHCR had an affirmative obligation to request a recheck of the tax records and should not have issued a summary denial of the application for deregulation. A recheck was certainly in order here, where the tenant had filed taxes late due to health problems. 190 Riverside Drive v. DHCR, N.Y.L.J., Sept. 27, 2000, page 27, col. 1 (Civ. Ct. New York Co.).

¶ 14. DHCR is limited by law in terms of the type of financial information it may obtain. Although the Department of Taxation and Finance (DTF) sends DHCR a "yes" or "no" answer as to whether the tenant's income exceeds the threshold level of $175,000, DHCR is not permitted to demand an actual income tax return from a tenant. Giffuni Brothers v. DHCR, 293 A.D.2d 402, 742 N.Y.S.2d 205, leave to appeal denied, 99 N.Y.2d 505, 785 N.Y.S.2d 733, 785 N.E.2d 733 (2003).

¶ 15. In connection with the landlord's 1999 deregulation application, DHCR ascertained from the Department of Taxation that the income of the tenants did not exceed the $175,000 threshold in 1998. Based on this information, the 1999 deregulation application was denied, since high income deregulation is conditioned on tenant income exceeding the deregulation threshold in each of the two calendar years preceding the deregulation application. In 2000, the landlord applied again for deregulation. That application was denied based upon the above described information obtained in connection with the 1999 application, i.e. that in 1998 (one of the two years placed in issue by the 2000 application), the tenant's income had not exceeded the deregulation threshold. The court held that since DHCR previously verified the tenant's income during the 1999 deregulation proceeding, the agency did not have to verify it again in connection with the 2000 deregulation application. Broadway 95th Street, LLC. v. DHCR, 297 A.D.2d 616, 747 N.Y.S.2d 226 (1st Dept. 2002).

¶ 16. In one case, the landlord filed with DHCR a petition for high-income regulation of the subject apartment. Thereafter, the Department of Taxation and Finance (DTF) reported that the household income was over $175,000 for both 1996 and 1997. As a result, in February 1999, DHCR issued a notice of proposed deregulation and gave each side the opportunity to comment on the results of the verification. The tenant responded that the total annual income for the household was not in excess of $175,000 in 1996 or 1997, and exhibited amended tax returns reflect household income under $175,000. DHCR then asked DTF to verify the income a second time. The second time, DTF responded that the household income was below the $175,000 limit in one or both of the two years in question. DHCR then denied the landlord's petition for high income deregulation, whereupon the landlord brought an Article 78 proceeding. The court granted the Article 78 petition. The court noted that, instead of challenging the accuracy or validity of the original verification, the tenant simply amended the tax return and showed the amended tax return reflecting income below the $175,000 threshold. She did not provide an explanation as to why an amended return had been filed or how the amended return differed from the return on file at the time of DTF's original verification. According to the court, the tenant answer "essentially amounted to a request for a do-over, rather than a comment on DHCR's proposed order." The court found that DHCR's ruling was improper because it invited abuse of the luxury decontrol procedures, which

contemplate a single verification, the result of which is binding on all parties unless it can be shown that DTF made an error. Since there was no showing that DHCR made an error in its initial verification, the landlord was entitled to deregulation of the apartment. The Court of Appeals agreed with the two dissenting judges at the Appellate Division level, who had said that DHCR's "blind acceptance" of the amended return was irrational. Classic Realty LLC v. New York State Div. of Housing and Community Renewal, 2 N.Y.3d 142, 777 N.Y.S.2d 1, 808 N.E.2d 1260 (2004).

¶ 17. DHCR cannot summarily deny the landlord's application for luxury decontrol merely because DTFis unable to locate the tenant's tax return. DHCR must make more of an effort to obtain the needed information. For example, the tenant should be asked to provide additional information, from which DHCR can formulate a request to DTF that will produce the necessary information. If that is not possible, the tenant can be asked to produce a copy of his or her entire return. Zimak v. DHCR, N.Y.L.J., May 26, 2004, at 18, col. 1 (Sup.Ct. New York Co.).

¶ 18. In Matter of London Terrace Gardens v. DHCR, 6 Misc 3d 1020(A), 2005 WL 310876, N.Y.L.J., Jan. 19, 2005, at 18, col. 3 (Sup.Ct. New York Co.), the court provided a useful description of the workings of the luxury decontrol law. The Rent Stabilization Law (RSL) provides a means for owners to petition for deregulation of rent stabilized apartments. A rent stabilized apartment with a legal regulated rent of $2,000 per month or more may be deregulated if the occupants' combined threshold income exceeds $175,000 for each of the two years preceding the owner's petition (26-504.3(b)). An owner seeking deregulation must furnish the tenant with an Income Certification Form (ICF) and the tenant is then required to certify whether the occupants' combined income exceeds $175,000 (id.). If the tenant certifies that the income was below the threshold amount, the owner may contest the certification and request that DHCR verify the household income (26-504.3(c)(1)). DHCR then requests that the tenant provide any necessary information to permit the State Department of Taxation and Finance (DTF) to verify the household income (id.). If the DTF determines that the income surpasses the threshold amount for the relevant two-year period, DHCR must permit the parties thirty days to comment on the results (26-504.3(c)(2)). Thereafter, where DHCR finds that the tenant's income exceeded the threshold amount during the relevant time period, it must issue an order providing that the apartment will be deregulated after the expiration of the existing lease (26-504.3(c)(2)). The London Terrace landlord, in April 2003, served the ICF on the tenants, who returned the form 5 days later, certifying an income of less than $175,000 for the relevant time period. Next month, the owner served a Luxury Deregulation Petition on DHCR, seeking verification of the tenant's income. Then, DHCR in October 2003 served the parties with a Notice of Opportunity to Comment or Rebut for the 2003 Filing Period. In March 2004, DHCR sent the parties a Notice of Verification of Income Tax Information, by which the Rent Administrator notified the parties that DTF had matched the tenants and their address with income tax returns for both 2001 and 2002 and that the income reported was $175,000 or less in both years. The parties were given an opportunity to comment. The owner argued that, since at the inception of the tenancy in 1998, the tenants filed an application setting forth their income as $140,000 per year, it was likely that by now, their income was over $175,000 per year. DHCR, however, declined the owner's request that the agency conduct an investigation to determine the tenants' income, and held that it was entitled to rely upon the DTF figure. The court upheld this. Court distinguished 190 Riverside Drive v. DHCR, N.Y.L.J., Sept. 27, 2000, at 27, col. 1 (Sup.Ct. New York Co.), where DTF could not find a matching tax return at all, since none had been filed, the agency has to do an investigation. However, where there is a tax return filed and DHCR finds a match, the owner will not be able to get DHCR to act as a tax auditor. The owner argued that this practice encourages the filing of fraudulent tax returns, but the court said that it was not the role of DHCR to determine compliance with tax laws. Although deciding the case on the basis that DHCR can rely on DTF, the court also noted that the landlord's contention that income had gone over the threshold amount from 1998 to 2001 was based on pure speculation. ¶ 19. The operative date for purposes of establishing whose income will be included in the total annual income is the date on which the certification form is served on the tenant. Thus, where the tenant's husband vacated the apartment prior to the service of the certification form, the husband's income is not counted. 103 East 86th St. Realty Corp. v. DHCR, 12 A.D.3d 289, 785 N.Y.S.2d 65 (1st Dept. 2004).

¶ 20. The mere filing by the landlord of a luxury decontrol application does not constitute abuse of process. Britt v. Nestor, 17 A.D.3d 144, 791 N.Y.S.2d 829 (1st Dept. 2005).

¶ 21. DHCR has jurisdiction to adjudicate luxury deregulation petitioners and to request that the Department of Taxation and Finance verify the total annual income of all persons residing in the housing accommodation as their primary residence. Moreover, in determining household income for purposes of luxury deregulation, DHCR may take into consideration the income of occupants who reside in the apartment on the date the income certification form is served, even if the occupant did not occupy the apartment during the two years preceding service thereof. Power v. DHCR, 61 A.D.3d 544, 878 N.Y.S.2d 682 (1st Dept. 2009). See also, Matter of Doyle v. Calogero, 52 A.D.3d 252, 859 N.Y.S.2d 178 (1st Dept. 2009), leave to appeal denied, 11 N.Y.3d 716, 874 N.Y.S.2d 5 (2009).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-505

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-505 Application to multiple family complex.

For purposes of this chapter a class A multiple dwelling shall be deemed to include a multiple family garden-type maisonette dwelling complex containing six or more dwelling units having common facilities such as sewer line, water main, and heating plant, and operated as a unit under a single ownership on May sixth, nineteen hundred sixty-nine, notwithstanding that certificates of occupancy were issued for portions thereof as one- or two-family dwellings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-3.1 added LL 49/1969 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-506

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-506 Application to hotels.

a. Notwithstanding the provisions of section 26-504 of this chapter to the contrary, and irrespective of any decontrol pursuant to subparagraph (c) of paragraph two of subdivision e of section 26-403 of the city rent and rehabilitation law, this law shall apply to dwelling units in all hotels except hotels erected after July first, nineteen hundred sixty-nine, whether classified as a class A or a class B multiple dwelling, containing six or more dwelling units, provided that the rent charged for the individual dwelling units on May thirty-first, nineteen hundred sixty-eight was not more than three hundred fifty dollars per month or eighty-eight dollars per week; and further provided that, notwithstanding the foregoing, this law shall apply to dwelling units in any hotel, whether classified as a class A or a class B multiple dwelling, eligible for benefits pursuant to the provisions of section 11-244 of the code.

b. Upon application by a tenant or owner, the division of housing and community renewal, shall determine if such building is a hotel covered by this law, based upon the services provided and other relevant factors. If it is determined that such building is not a hotel, it shall thereafter be subject to this law pursuant to subdivision b of section 26-504 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-3.1 added LL 51/1969 § 2

Amended chap 403/1983 § 43

Amended LL 39/1981 § 3

(reference in bill section 3 is incorrect)

CASE NOTES FROM FORMER SECTION

¶ 1. Issue as to what minimal hotel services, if any, or minimum percentage of hotel services are mandated in order for building to be "hotel" under code is left to conciliation and appeals board [before April 1, 1984] pursuant to YY51-3.1, subd. b.-Whitehall Hotel v. Nicholas Gaynor, 121 Misc. 2d 736 [1983].

¶ 2. Garden Apts. were subject to rent stabilization because they fit within the definition set forth in this section for dwellings on May 6, 1969. Subsequent changes to the building should not change the rent stabilized status of tenants previously protected. Conciliation and Appeals Board interpretation of § YY51-3.1 was proper and not arbitrary and capricious.-Orin Management Corp. v. N.Y.C. Conciliation and Appeals Board, 191 (45) N.Y.L.J. (3-7-84) 6, col. 1B.

CASE NOTES

¶ 1. In order to establish an exemption from hotel stabilization, the landlord must establish that the rent charged on May 1, 1968 was more than $350 per month or $88 per week. In one case, the court determined that the landlord had failed to meet its burden of proof; no rent records were produced and there was no proof that the apartment was even occupied at the time. The court refused to credit the testimony of the hotel's managing director, who had no independent recollection of rentals, and merely testified that had the apartment been stabilized, it would have been registered with the then existing hotel stabilization association. Chelsea 23rd Street Corp. v Nolan, N.Y.L.J., Sept. 26, 2001, page 18, col. 1 (App.Term 1st Dept.).

¶ 2. Upon reclassifying a hotel to an apartment building, DHCR can retroactively roll back rents to June 30, 1983, the effective date of Adm. Code §26-506, subject to the four-year limit on rent overcharge cases. Benjamin Shapiro Realty Co. v. DHCR, 2 A.D.3d 220, 769 N.Y.S.2d 226 (1st Dept. 2003), leave to appeal denied, 2 N.Y.3d 708, 781 N.Y.S.2d 290, 814 N.E.2d 462 (2004).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-507

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-507 Application to certain multiple dwellings purchased from the city.

a. Notwithstanding the provisions of any local law or regulation promulgated pursuant to the rent stabilization law of nineteen hundred sixty-nine or the emergency tenant protection act of nineteen seventy-four, upon the sale in any manner authorized by law of a multiple dwelling which was previously subject to the provisions of any such laws or acts which was acquired by the city in a tax foreclosure proceeding or pursuant to article nineteen-A of the real property actions and proceedings law, all dwelling units within the multiple dwelling shall be subject to the rent stabilization law of nineteen hundred sixty-nine, as amended, at the last rent charged by the city, or on behalf of the city, for such dwelling unit.

b. If a unit which was subject to this chapter at the time the city so acquired title is occupied by a tenant who was in occupancy at the time of acquisition and remains in occupancy at the time of sale, such tenant shall be offered a one or two year lease at the rent provided in this section as soon as practical at the sale of the multiple dwelling.

c. This section shall not apply to redemptions from city ownership pursuant to chapter four of title eleven of the code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-3.3 added LL 14/1979 § 1

Sub b amended chap 403/1983 § 44

CASE NOTES

¶ 1. Defendant moved into an apartment in building acquired by the city in an in rem tax foreclosure proceeding. City offered a lease on month-to-month basis. Building was redeemed and conveyed to plaintiff. A renewal lease was requested but not given, further, action was commenced that defendant was no longer protected. Here, appellant became tenant of record while the city owned property and she remained covered by rent stabilization. Starr v. Hicks, 137 AD2d 515 [1988].

¶ 2. Respondent-tenant in a building purchased from the City of NY by petitioner elected not to purchase the shares allocable to her apartment pursuant to petitioner's cooperative conversion plan and instead entered into a lease agreement providing that any renewal was subject to the discretion of petitioner's board of directors was not entitled to a renewal lease upon the expiration of the existing lease based upon her claim of stabilized status under Rent Stabilization Law § 26-507 (Ad Code § 26-507). Section 26-507 was not intended to narrow the specific exemption from stabilization coverage for cooperatives expressly provided for in section 26-504(a) of the Rent Stabilization Law. Jerome Ave. Hous. Dev. Fund Corp. v. King, 147 Misc. 2d 162, 560 N.Y.S.2d 601 (1st Dept. 1990).

¶ 3. A building can be rent stabilized even though it was owned at one time by the City of New York. See 89 Lefferts Place HDFC v. Johnson, 26 Housing Court Reporter 634, Civ.Ct. Kings Co., Judge Callendar, Index No. 76335-97.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-509

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-509 Application to department for the aging for rent increase exemptions and equivalent tax abatement for rent regulated property occupied by certain senior citizens.

a. Commencement of agency jurisdiction.

(1) (i) Notwithstanding any provisions of this chapter to the contrary, on and after July first, nineteen hundred ninety-two, the department for the aging shall grant rent increase exemption orders or tax abatement certificates to senior citizens pursuant to this section and applications for such orders and certificates and renewal applications shall be made to the department for the aging.

(ii) Notwithstanding any provisions of this chapter to the contrary, such agency as the mayor shall designate shall grant rent increase exemption orders or tax abatement certificates to persons with disabilities pursuant to this section and applications for such orders and certificates and renewal applications shall be made to such agency.

(2) The department for the aging and such other agency as the mayor shall designate shall have the power, in relation to any application for a rent increase exemption order or tax abatement certificate under such department or agency's jurisdiction, to determine the lawful stabilization rent, but shall not receive applications for adjustment of the initial legal regulated rent pursuant to section 26-513 of this chapter.

(3) The department of finance, the department for the aging and such other agency as the mayor shall designate may promulgate such rules and regulations as may be necessary to effectively carry out the provisions of this section.

b. Rent increase exemptions for certain senior citizens and persons with disabilities.

(1) No increase in the legal regulated rent shall be collectible from a tenant to whom there has been issued a currently valid rent exemption order pursuant to this subdivision, except as provided in such order, if such increase is a lawful increase in the monthly legal regulated rent over the rent legally payable on the eligibility date which is provided under a two year lease, or under such other term as regards dwelling units subject to the hotel stabilization provisions of this chapter, for an increase in rent:

(i) pursuant to an order of the New York city rent guidelines board, or

(ii) based upon an owner hardship rent increase order issued by the state division of housing and community renewal.

(2) A tenant is eligible for a rent exemption order pursuant to this section if:

(i) the head of the household residing in the housing accommodation is sixty-two years of age or older or is a person with a disability, and is entitled to the possession or to the use or occupancy of a dwelling unit. To qualify as a person with a disability for the purposes of this section, an individual shall submit to such agency as the mayor shall designate proof (as specified by regulation of such agency as the mayor shall designate) showing that such individual is currently receiving social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act or disability pension or disability compensation benefits provided by the United States department of veterans affairs, or was previously eligible by virtue of receiving disability benefits under the supplemental security income program or the social security disability program and is currently receiving medical assistance benefits based on determination of disability as provided in section three hundred sixty-six of the social services law.

(ii) the aggregate disposable income (as defined by regulation of the department for the aging) of all members of the household residing in the housing accommodation whose head of the household is sixty-two years of age or older does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, per year, after deduction of federal, state and city income and social security taxes. For purposes of this subparagraph, "aggregate disposable income" shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the eligibility date of the head of the household receiving benefits under this section whether received by the head of the household or any other member of the household;

(iii) the aggregate disposable income (as defined by regulation of such agency as the mayor shall designate) for the current income tax year of all members of the household residing in the housing accommodation whose head of the household is a person with a disability does not exceed the maximum income above which such head of the household would not be eligible to receive cash supplemental security income benefits under federal law during such tax year. For purposes of this subparagraph, "aggregate disposable income" shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the eligibility date of the head of the household receiving benefits under this section, whether received by the head of the household or any other member of the household.

(iv) (a) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, the maximum rent for the housing accommodation exceeds one-third of the aggregate disposable income, or subject to the limitations contained within item (c) of subparagraph (i) of paragraph three of this

subdivision, if any expected lawful increase in the maximum rent would cause such maximum rent to exceed one-third of the aggregate disposable income; or

(b) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, the maximum rent for the housing accommodation exceeds the maximum allowance for shelter which the head of the household is entitled to receive pursuant to the social services law, or subject to the limitations contained within item (c) of subparagraph (i) of paragraph three of this subdivision, if any expected lawful increase in the maximum rent would cause such maximum rent to exceed the maximum allowance for shelter which the head of the household is entitled to receive.

(3) (i) A rent exemption order pursuant to this subdivision shall provide:

(a) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, that the landlord may not collect from the tenant to whom it is issued rent at a rate in excess of either one-third of the aggregate disposable income, or the rent in effect immediately preceding the eligibility date, whichever is greater; or

(b) in the case of a head of the household who receives a monthly allowance for shelter pursuant to the social services law, that the landlord may not collect from the tenant to whom it is issued rent at a rate in excess of either the maximum allowance for shelter which the head of the household is entitled to receive, or the rent in effect immediately preceding the eligibility date, whichever is greater; and

(c) that the landlord may collect from the tenant increases in rent based on an electrical inclusion adjustment or an increase in dwelling space, services or equipment.

(ii) Each such order shall expire upon termination of occupancy of the housing accommodation by the tenant to whom it is issued. The landlord shall notify the department for the aging in the case of a household whose eligibility for such order is based on the fact that the head of such household is sixty-two years of age or older, or such agency as the mayor shall designate in the case of a household whose eligibility for such order is based on the fact that the head of such household is a person with a disability, on a form to be prescribed by such department or agency, within thirty days of each such termination of occupancy.

(iii) When a rent reduction order is issued by the state division of housing and community renewal, the amount of the reduction shall be subtracted from the rent payable by the tenant specified in a currently valid rent exemption order issued pursuant to this subdivision. The landlord may not collect from the tenant a sum of rent exceeding the adjusted amount while the rent reduction order is in effect.

(4) Any landlord who collects, or seeks to collect or enforce, rent from a tenant in violation of the terms of a rent exemption order shall, for the purposes of all remedies, sanctions and penalties provided in this chapter, be deemed to have collected or attempted to collect or enforce, a rent in excess of the legal regulated rent.

(5) A rent exemption order shall be issued to each tenant who applies to the department for the aging in the case of a tenant who is sixty-two years of age or older or to such agency as the mayor shall designate in the case of a tenant who is a person with a disability, in accordance with such department or agency's applicable regulations and who is found to be eligible under this subdivision. Such order shall take effect on the first day of the first month after receipt of such application by the department for the aging or such agency as the mayor shall designate, except that where there is any other increase in the legal regulated rent within ninety days of the issuance of the order increasing the tenant's maximum rent which a tenant is not exempted from paying, the rent exemption order shall without further order of the department for the aging or such agency as the mayor shall designate take effect as of the effective date of said order increasing the tenant's rent including any retroactive increments collectible pursuant to such order.

(6) A rent exemption order shall be valid for the period of the lease or renewal thereof upon application by the

tenant; provided, that upon any such renewal application being made by the tenant, any rent exemption order then in effect with respect to such tenant shall be deemed renewed until such time as the department for the aging or such agency as the mayor shall designate shall have found such tenant to be either eligible or ineligible for a rent exemption order but in no event for more than six additional months. If such tenant is found eligible, the order shall be deemed to have taken effect upon expiration of the exemption. In the event that any such tenant shall, subsequent to any such automatic renewal, not be granted a rent exemption order, such tenant shall be liable to the owner for the difference between the amounts the tenant has paid under the provisions of the automatically renewed order and the amounts which the tenant would have been required to pay in the absence of such order. Any rent exemption order issued pursuant to this subdivision shall include provisions giving notice as to the contents of this paragraph relating to automatic renewals of rent exemption orders and shall include provisions giving notice that the tenant must enter into either a one or two year renewal lease in order to be eligible for a rent exemption. The notice that each tenant receives from the owner relating to the right to a renewal lease shall contain similar information. Any application or renewal application for a rent exemption order shall also constitute an application for a tax abatement under such section. The department for the aging and such other agency as the mayor shall designate may, with respect to renewal applications by the tenants who have been found eligible for rent exemption orders, prescribe a simplified form including a certification of the applicant's continued eligibility in lieu of a detailed statement of income and other qualifications.

(7) Notwithstanding any other provisions of law, when a head of a household to whom a then current, valid rent exemption order has been issued under this chapter, chapter three or chapter seven of this title moves his or her principal residence to a subsequent dwelling unit subject to regulation under this chapter, the head of the household may apply to the department for the aging or such other agency as the mayor shall designate for a rent exemption order relating to the subsequent dwelling unit, and such order may provide that the head of the household shall be exempt from paying that portion of the legal regulated rent for the subsequent dwelling unit which is the least of the following:

(i) the amount by which the rent for the subsequent dwelling unit exceeds the last rent, as reduced, which the head of the household was required to actually pay in the original dwelling unit;

(ii) the last amount deducted from the maximum rent or legal regulated rent meaning the most recent monthly deduction for the applicant in the original dwelling unit pursuant to this section or section 26-605 of this title; or

(iii) where the head of the household does not receive a monthly allowance for shelter pursuant to the social services law, the amount by which the legal regulated rent of the subsequent dwelling unit exceeds one-third of the combined income of all members of the household.

Such certificate shall be effective as of the first day of the month in which the tenant applied for such exemption or as of the date the tenant took occupancy of the subsequent dwelling unit, whichever is later provided both occur after the effective date of this section.

(8) (i) When a dwelling unit subject to regulation under this chapter is later reclassified to a dwelling unit subject to regulation under chapter three of this title, the eligibility of a head of the household to receive a rent increase exemption order upon such reclassification shall be governed by paragraph eight of subdivision m of section 26-405 of this title.

(ii) When a dwelling unit subject to regulation under this chapter is later reclassified to a dwelling unit subject to the provisions of article II, IV, V or XI of the private housing finance law or subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, the eligibility of a head of the household to receive a rent increase exemption order upon such reclassification shall be governed by section 26-605.1 of this title.

(9) Notwithstanding any other provision or law to the contrary, where a head of household holds a current, valid rent exemption order and, after the effective date of this paragraph, there is a permanent decrease in aggregate

disposable income in an amount which exceeds twenty percent of such aggregate disposable income as represented in such head of the household's last approved application for a rent exemption order or for renewal thereof, such head of the household may apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to reestablish the ratio of adjusted rent to aggregate disposable income which existed at the time of approval of such head of the household's last application for a rent exemption order or for renewal thereof; provided, however, that in no event shall the amount of adjusted rent be redetermined to be (i) in the case of a head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, less than one-third of the aggregate disposable income; or (ii) in the case of a head of the household who receives a monthly allowance for shelter pursuant to such law, less than the maximum allowance for shelter which such head of the household is entitled to receive pursuant to the social services law. For purposes of this paragraph, a decrease in aggregate disposable income shall not include any decrease in such income resulting from the manner in which such income is calculated pursuant to any amendment to paragraph c of subdivision one of section four hundred sixty-seven-b of the real property tax law, any amendment to the regulations of the department for the aging made on or after April first, nineteen hundred eighty-seven or any amendment to the regulations of such agency as the mayor shall designate made on or after the effective date of the local law that amended this section. For purposes of this paragraph, "adjusted rent" shall mean legal regulated rent less the amount set forth in a rent exemption order.

c. Tax abatement for properties subject to rent exemption order.

(1) Tax abatement, pursuant to the provisions of section four hundred sixty-seven-b of the real property tax law, shall be granted with respect to any real property for which a rent exemption order is issued under subdivision b of this section to the tenant of any housing accommodation contained therein. The rent exemption order shall also constitute the tax abatement certificate.

(2) The real estate tax imposed upon any real property for which a rent exemption is issued, shall be reduced and abated by an amount equal to the difference between:

(i) the sum of the maximum rents collectible under such orders, and

(ii) the sum of rents that would be collectible from the tenants of such housing accommodations if no exemption had been granted pursuant to subdivision b of this section.

(3) For any individual housing accommodation, the tax abatement computed pursuant to this subdivision shall be available with respect to a period commencing on the effective date of the initial rent exemption order, and ending on the expiration date of such order or on the effective date of an order terminating the rent exemption.

(4) Prior to the commencement of each fiscal year, the department for the aging shall notify the department of finance of the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders granted to persons sixty-two years of age or older were in effect for all or any part of the preceding calendar year. Prior to the commencement of each fiscal year, such agency as the mayor shall designate shall notify the department of finance of the total amount of taxes to be abated under this section with respect to each property for which rent exemption orders granted to persons with disabilities were in effect for all or any part of the preceding calendar year. The commissioner of finance shall make the appropriate adjustment in the real estate tax payable in such fiscal year.

(5) Tax abatement pursuant to this section shall be in addition to any other tax abatement authorized by law, but shall not reduce the tax for any fiscal year below zero. In the event that the tax abatement certificate authorizes an amount of deduction in excess of the real estate installment, then the balance may be applied to any subsequent installment until exhausted. In such a case the owner shall submit with his or her real estate tax bill and remittance, a verified statement in such form as prescribed by the commissioner of finance setting forth the carry over amount and the amounts previously applied; provided, however, that at the request of the owner such balance shall be paid to the owner

by the commissioner of finance in lieu of being applied to any subsequent installment, except where the owner is in arrears in the payment of real estate taxes on any property. For the purposes of this paragraph, where the owner is a corporation, it shall be deemed to be in arrears when any of the officers, directors or any person holding an interest in more than ten percent of the issued and outstanding stock of such corporation is in arrears in the payment of real estate taxes on any property; where title is held by a nominee, the owner shall be deemed to be in arrears when the person for whose benefit such title is held is in arrears in the payment of real estate taxes on any property.

d. Notwithstanding the provisions of this chapter, a tenant who resides in a dwelling unit which becomes subject to this chapter upon the sale by the city of New York of the building in which such dwelling unit is situated may be issued a rent increase exemption order for increases in rent which occurred during ownership of such building by the city of New York provided that such tenant would have been otherwise eligible to receive a rent increase exemption order at the time of such increase but for the fact that such tenant occupied a dwelling unit owned by the city of New York and was therefore not subject to this chapter. Application for such rent increase exemption orders shall be made within one year from the date such building is sold by the city of New York or within one year of the effective date of this provision, whichever is later.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section heading amended L.L. 76/2005 § 10, eff. Oct. 10, 2005.

Section heading amended L.L. 40/1992 § 11, eff. July 1, 1992.

Subd. a amended L.L. 76/2005 § 11, eff. Oct. 10, 2005.

Subd. a amended L.L. 40/1992 § 12, eff. July 1, 1992.

Subd. b amended L.L. 52/1986 § 4, see note.

Subd. b heading amended L.L. 76/2005 § 12, eff. Oct. 10, 2005.

Subd. b par (2) open par amended L.L. 76/2005 § 12, eff. Oct. 10, 2005.

Subd. b par (2) subpar (i) amended L.L. 76/2005 § 12, eff. Oct. 10, 2005.

Subd. b par (2) subpar (ii) amended L.L. 95/2005 § 2, eff. Nov. 15, 2005.

Subd. b par (2) subpar (ii) separately amended L.L. 75/2005 § 3, eff. Aug. 11, 2005 and L.L. 76/2005 § 12, eff. Oct. 10, 2005.

Subd. b par (2) subpar (ii) amended L.L. 67/2003 § 3, eff. Nov. 13, 2003 and retroactive to Sept. 1, 2003. [See § 26-405 Note 2]

Subd. b par (2) subpar (ii) amended L.L. 1/1996 § 3, eff. Jan. 12, 1996 and retroactive to Aug. 2, 1995.

Subd. b par (2) subpar (ii) amended L.L. 96/1992 § 3, eff. June 23, 1992.

Subd. b par (2) subpar (ii) amended L.L. 40/1992 § 13, eff. July 1, 1992.

Subd. b par (2) subpar (ii) sep. amended ch. 366/1988 § 3, see note. L.L. 67/1988 § 4, see note.

Subd. b par (2) subpar (iii) amended L.L. 94/2005 § 2, eff. Nov. 15, 2005.

Subd. b par (2) subpar (iii) added L.L. 76/2005 § 13, eff. Oct. 10, 2005.

Subd. b par (2) subpar (iv) renumbered (former subpar (iii)) L.L. 76/2005 § 13, eff. Oct. 10, 2005.

Subd. b par (3) subpar i item (c) amended ch. 737/1986 § 4.

Subd. b par (3) subpar (ii) amended L.L. 76/2005 § 14, eff. Oct. 10, 2005.

Subd. b par (3) subpar (ii) amended L.L. 40/1992 § 14, eff. July 1, 1992.

Subd. b par (3) subpar (iii) added L.L. 21/2005 § 2, eff. Mar. 7, 2005 and applying to rent reduction orders issued by DHCR on and after that date.

Subd. b par (5) amended L.L. 76/2005 § 15, eff. Oct. 10, 2005.

Subd. b par (5) amended L.L. 40/1992 § 15, eff. July 1, 1992.

Subd. b par (6) amended L.L. 76/2005 § 15, eff. Oct. 10, 2005.

Subd. b par (6) amended L.L. 40/1992 § 16, eff. July 1, 1992.

Subd. b par (6) amended ch. 823/1990 § 1 eff. July 25, 1990.

Subd. b par (6) amended ch. 651/1988 § 5.

Subd. b par (7) open par amended L.L. 76/2005 § 16, eff. Oct. 10, 2005.

Subd. b par (7) open par amended L.L. 40/1992 § 17, eff. July 1, 1992.

Subd. b par (8) added ch. 17/1987 § 3, see note after § 26-605.1.

Subd. b par (9) amended L.L. 76/2005 § 17, eff. Oct. 10, 2005.

Subd. b par (9) amended L.L. 56/2003 § 2, eff. Sept. 4, 2003 and applying to applications for redetermination filed on and after March 23, 2003.

Subd. b par (9) amended ch. 651/1988 § 6.

Subd. b par (9) added ch. 584/1987 § 8, see note after § 26-615.

Subd. b par (9) subpar (ii) amended L.L. 40/1992 § 18, eff. July 1, 1992.

Subd. c par (4) amended L.L. 76/2005 § 18, eff. Oct. 10, 2005.

Subd. c par (4) amended L.L. 40/1992 § 19, eff. July 1, 1992.

Subd. d added L.L. 37/1986 § 8.

DERIVATION

Formerly § YY51-4.1.1 added chap 598/1980 § 1

Sub b par 2 item ii amended LL 61/1980 § 5

Sub b par 2 item ii amended LL 68/1982 § 5

Sub a par 4 added chap 403/1983 § 8

Sub b pars 1, 6 amended chap 403/1983 § 45

Sub c par 5 amended LL 44/1983 § 3

Sub b par 2 item ii amended LL 63/1985 § 5

(Special provision LL 63/1985 § 6

Sub b par 2 subpars i, iii amended LL 98/1985 § 4

Sub b par 3 subpar i amended LL 98/1985 § 5

Sub b par 7 amended LL 98/1985 § 6

Sub b par 3 subpar i item c amended chap 737/1986 § 3

NOTE

Provisions of L.L. 67/1988

§ 5. This local law shall take effect immediately and shall be retroactive to and shall be deemed to have been in full force and effect on and after the effective date of a state law authorizing such exemption. Notwithstanding any inconsistent provisions of the administrative code, any person who on the effective date of such state law would have been eligible for a rent increase exemption order pursuant to such code but for the fact that his or her income exceeded the twelve thousand twenty-five dollar income limitation in effect before the enactment of this local law, and who as a result of the enactment of this local law increasing the maximum income limitation to fifteen thousand dollars is eligible as of the effective date of a state law authorizing such exemption, for such order, may file an application for such order within ninety days of the enactment of this local law, and any such order issued to such applicant shall be effective as of the effective date of such state law.

Provisions of ch. 366/1988

§ 4. If any provision of this act or the application thereof to any person or cirumstances is held invalid, the remainder of this act and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

§ 5. This act shall take effect immediately, provided, however, that with respect to any person who on the effective date of this act holds a current, valid rent increase exemption order issued by the department of housing preservation and development of the city of New York pursuant to section 26-405 or section 26-509 of the administrative code of the city of New York, this act shall be retroactive to and shall be deemed to have been in full force and effect as of the effective date of the initial rent increase exemption order issued to such person pursuant to such section 26-405 or section 26-509, provided, however, for purposes of this section, "initial rent increase exemption orders" shall include only those rent increase exemption orders issued pursuant to such section 26-405 or section 26-509 which have been renewed each year subsequent to the date originally issued and are in effect on the effective date of this act.

CASE NOTES

¶ 1. Nunez v. Dinkins, 641 N.Y.S.2d 983 (Sup.Ct. New York Co. 1996). Senior citizens were entitled to have their Senior Citizen Rent Increase Exemptions (SCRIE) calculated from the time they first became eligible for SCRIE, not on later date they first applied for SCRIE orders. The eligibility date, for purposes of the statute, is the date on which the tenant first met the stipulated requirements (age, income level, etc.) for a SCRIE.

¶ 2. Tindell v. Koch, 164 A.D.2d 689, 565 N.Y.S.2d 789 (1st Dept. 1991). The court permitted a class action for a declaratory judgment regarding the administration (check) of the SCRIE program. The class was defined as all senior citizens residing in rent stabilized apartments within the City of New York who presently are eligible, or in the future will be eligible, to receive a SCRIE order and who because they applied, or will apply, for the benefits after the date they first met the SCRIE eligibility criteria, received, or will receive, a smaller benefit than they would have received if the SCRIE application had been received on the date they first met the SCRIE eligibility criteria.

¶ 3. Coccaro v. Stupp, 170 Misc.2d 196, 166 Misc.2d 948, 635 N.Y.S.2d 924 (Sup.Ct. New York Co.). Where the City had intended to revoke SCRIE benefit because the tenant was no longer met the income requirements of the law, but the tenant never received notice until years later, the court refused to compel the tenant to return the overpayment. The tenant had relied upon the benefits over the years, and payment of the sum demanded by the City would have created substantial hardship for the tenant.

¶ 4. A landlord who was required to give senior citizen rent exemptions to tenants alleged that the SCRIE program was so mismanaged that it took an unreasonable length of time for tax abatements or cash reimbursement (the latter in cases where SCRIE benefits exceeded the landlord's real estate tax liability) to come through for the landlord. The court rejected the landlord's claim that the delays constituted an illegal taking of property without just compensation. However, the court held that the landlord had a recognizable property interest in the right to reimbursement from the City and if it were shown that the delays were sufficiently severe, this would constitute an unlawful deprivation of due process. Kraebel v. New York City Department of Housing Preservation and Development, 959 F.2d 395 (2nd Cir. 1992).

¶ 5. A tenant eligible for Senior Citizen Rent Increase Exemptions will still have to pay rent increases based on new equipment or services to which the tenant had consented. Ironton Realty Co. v. Lagrule, 150 Misc.2d 973, 571 N.Y.S.2d 181 (Civ.Ct. New York Co. 1991).

¶ 6. In calculating the tenant's income for SCRIE purposes, the tenant is not entitled to a deduction for long term capital losses. Coccaro v. Stupp, 650 N.Y.S.2d 500 (Sup.Ct. New York Co. 1996).

¶ 7. The tenants' SCRIE benefits lapsed due to the their failure to reapply for benefits within the required time. The landlord, who was unaware that the benefits had lapsed, continued to charge the tenant the lower rents and expected to recoup the money through a tax abatement. The court, however, held that the landlord was not entitled to the tax abatement. Matter of Sacchetti v. City of New York Department of the Aging, N.Y.L.J., Apr. 17, 1996, page 25, col. 5 (Sup.Ct. New York Co.).

¶ 8. A person applying for SCRIE benefits need not have reached age 62 at the time of the effective date of the rent increase for which the exemption is sought, so long as he or she has reached the age of 62 at the time of the filing of the application for benefits. Lee v. Biderman, 169 A.D.2d 523, 564 N.Y.S.2d 174 (1st Dept. 1991).

¶ 9. A tenant eligible for Senior Citizen Rent Increase Exemptions (SCRIE) will not be exempted from paying rent increases based on new equipment or services to which the tenant had consented. Ironton Realty Co. v. Lagrule, 150 Misc.2d 973, 571 N.Y.S.2d 181 (Civ.Ct. New York Co. 1991).

¶ 10. Nunez v. Dinkins, 641 N.Y.S.2d 983 (Sup.Ct. New York Co. 1996), previously annoted, has been reversed by the Appellate Division, N.Y.L.J., Feb. 24, 1997, p. 25, col. 1. The successful SCRIE applicant may be charged the

rent in effect on the date of actual application, even if that figure includes rent increases that might have been avoided if the applicant had applied for SCRIE benefits (earlier) immediately upon meeting the age and financial requirements.

¶ 11. The opinion at 653 N.Y.S.2d 351 was vacated. Now,, the court vacated its prior determination and held that senior citizens were entitled to have their rent frozen on the date at which they first became eligible for SCRIE, not the date that they first applied for SCRIE benefits. Nunez v. Guiliani, 657 N.Y.S.2d 168 (1st Dept. 1997).

¶ 12. A tenant's effective date for SCRIE benefits is the date prior to the effective date for the most recent lease for the unit, rather than on any earlier date that the tenant first became eligible for SCRIE benefits. Thus, a tenant who waits several years before claiming SCRIE benefits will have lost the opportunity to have obtained the benefits for the past years. Nunez v. Giuliani, 91 N.Y.2d 935, 670 N.Y.S.2d 399 (1998).

¶ 13. In one case, where a Senior Citizen Rent Income Exemption was denied, a landlord was required to pay real estate taxes. The landlord then sought to recover the payments from the tenant's daughter, who had succeeded to the rights to the apartment. The court, however, held that in the absence of evidence that the daughter had participated in an improper application for SCRIE benefits, the landlord could not recover the taxes from the daughter. Levine v. Fanelli, N.Y.L.J., Apr. 1, 1998.

¶ 14. A landlord who had mistakenly been billed for a reduced rent discovered that the SCRIE had long since expired and brought a summary proceeding to recover the difference between the lawful stabilized rent and the lesser amount that had been charged to the tenant. The court held that the landlord could recover a possessory judgment for the last six months' rent, but would have to use an ordinary money judgment with respect to the balance of the rent. 1560-80 Pelham Parkway v. Errico, N.Y.L.J., July 13, 1998, page 28, col. 6 (App.Term 1st Dept.).

¶ 15. A landlord is not authorized to take a tax abatement unless the agency issues a valid SCRIE (senior citizen rent increase exemption) order covering the tenant for the year for which abatement is sought. It is the responsibility of the landlord to take reasonable steps to determine whether the tenant has been certified as eligible to receive tax benefits, and this must be done before claiming the benefits. If the landlord has claimed amounts in excess of that to which it was entitled, the city can recoup the overage. 48 West 138th Limited Partnership v. Stupp, 270 A.D.2d 132, 706 N.Y.S.2d 312 (1st Dept. 2000).

¶ 16. Where a tenant fails to obtain recertification for Senior Citizen Rent Increase Exemption (SCRIE) benefits, the landlord is forced to pay back the tax benefits received by it. The landlord may then sue the tenant to recover back rent, on an unjust enrichment theory. That suit will be subject to a six-year Statute of Limitations. Seventh FGP, Inc. v. Yee, N.Y.L.J., Aug. 16, 2000, page 22, col. 2 (App. Term 1st Dept.).

¶ 17. A tenant who meets the eligibility requirements for SCRIE will get the exemption even where there has been no recent increase in the tenant's legal regulated rent. Gentile v. New York City Department for the Aging, 290 A.D.2d 395, 736 N.Y.S.2d 674 (1st Dept. 2002).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-510

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-510 Rent guidelines board.

a. There shall be a rent guidelines board to consist of nine members, appointed by the mayor. Two members shall be representative of tenants, two shall be representative of owners of property, and five shall be public members each of whom shall have had at least five years experience in either finance, economics or housing. One public member shall be designated by the mayor to serve as chairman and shall hold no other public office. No member, officer or employee of any municipal rent regulation agency or the state division of housing and community renewal and no person who owns or manages real estate covered by this law or who is an officer of any owner or tenant organization shall serve on a rent guidelines board. One public member, one member representative of tenants and one member representative of owners shall serve for a term ending two years from January first next succeeding the date of their appointment; one public member, one member representative of tenants and one member representative of owners shall serve for terms ending three years from the January first next succeeding the date of their appointment and two public members shall serve for terms ending four years from January first next succeeding the dates of their appointment. The chairman shall serve at the pleasure of the mayor. Thereafter, all members shall continue in office until their successors have been appointed and qualified. The mayor shall fill any vacancy which may occur by reason of death, resignation or otherwise in a manner consistent with the original appointment. A member may be removed by the mayor for cause, but not without an opportunity to be heard in person or by counsel, in his or her defense, upon not less than ten days notice.

b. The rent guidelines board shall establish annually guidelines for rent adjustments, and in determining whether rents for housing accommodations subject to the emergency tenant protection act of nineteen seventy-four or this law shall be adjusted shall consider, among other things (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates,

(ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it. Not later than July first of each year, the rent guidelines board shall file with the city clerk its findings for the preceding calendar year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to this law, authorized for leases or other rental agreements commencing on the next succeeding October first or within the twelve months thereafter. Such findings and statement shall be published in the City Record.

c. Such members shall be compensated on a per diem basis of one hundred dollars per day for no more than twenty-five days a year except that the chairman shall be compensated at one hundred twenty-five dollars a day for no more than fifty days a year. The chairman shall be chief administrative officer of the rent guidelines board and among his or her powers and duties he or she shall have the authority to employ, assign and supervise the employees of the rent guidelines board and enter into contracts for consultant services. The department of housing preservation and development shall cooperate with the rent guidelines board and may assign personnel and perform such services in connection with the duties of the rent guidelines board as may reasonably be required by the chairman.

d. Any housing accommodation covered by this law owned by a member in good standing of an association registered with the department of housing preservation and development pursuant to section 26-511 of this chapter which becomes vacant for any reason, other than harassment of the prior tenant, may be offered for rental at any price notwithstanding any guideline level established by the guidelines board for renewal leases, provided the offering price does not exceed the rental then authorized by the guidelines board for such dwelling unit plus five percent for a new lease not exceeding two years and a further five percent for a new lease having a minimum term of three years, until July first, nineteen hundred seventy, at which time the guidelines board shall determine what the rental for a vacancy shall be.

e. With respect to hotel dwelling units, covered by this law pursuant to section 26-506 of this chapter, the council, after receipt of a study from the rent guidelines board, shall establish a guideline for rent increases, irrespective of the limitations on amount of increase in subdivision d hereof, which guideline shall apply only to permanent tenants. A permanent tenant is an individual or family who at any time since May thirty-first, nineteen hundred sixty-eight, or hereafter, has continuously resided in the same hotel as a principal residence for a period of at least six months. On January first, nineteen hundred seventy-one and once annually each succeeding year the rent guidelines board shall cause a review to be made of the levels of fair rent increases provided under this subdivision and may establish different levels of fair rent increases for hotel dwelling units renting within different rental ranges based upon the board's consideration of conditions in the market for hotel accommodations and the economics of hotel real estate. Any hotel dwelling unit which is voluntarily vacated by the tenant thereof may be offered for rental at the guideline level for vacancies established by the rent guidelines board. If a hotel dwelling unit becomes vacant because the prior tenant was evicted therefrom, there shall be no increase in the rental thereof except for such increases in rental that the prior tenant would have had to pay had he or she continued in occupancy.

g. From September twenty-fifth, nineteen hundred sixty-nine until the rate of permissible increase is established by the council pursuant to subdivision e of this section, there shall not be collected from any permanent hotel tenant any rent increase in excess of ten percent over the rent payable for his or her dwelling unit on May thirty-first, nineteen hundred sixty-eight, except for hardship increases authorized by the conciliation and appeals board. Any owner who collects or permits any rent to be collected in excess of the amount authorized by this subdivision shall not be eligible to be a member in good standing of a hotel industry stabilization association.

h. The rent guidelines board prior to the annual adjustment of the level of fair rents provided for under subdivision b of this section for dwelling units and hotel dwelling units covered by this law, shall hold a public hearing or hearings for the purpose of collecting information relating to all factors set forth in subdivision b of this section. Notice of the date, time, location and summary of subject matter for the public hearing or hearings shall be published in

the City Record daily for a period of not less than eight days and at least once in one or more newspapers of general circulation at least eight days immediately preceding each hearing date, at the expense of the city of New York, and the hearing shall be open for testimony from any individual, group, association or representative thereof who wants to testify.

i. Maximum rates of rent adjustment shall not be established more than once annually for any housing accommodation within the board's jurisdiction. Once established, no such rate shall, within the one-year period, be adjusted by any surcharge, supplementary adjustment or other modification.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-5.0 added LL 16/1969 § 1

Sub b amended LL 51/1969 § 4

Sub d amended LL 51/1969 § 5

Subs f, g added LL 51/1969 § 6

Subs a, b, d repealed chap 576/1974 § 9

Subs d, e relettered chap 576/1974 § 9

(formerly subs e, f)

Subs a, b added chap 576/1974 § 9

Sub b amended LL 1/1974 § 2

Sub h added LL 25/1979 § 1

Sub b amended chap 235/1980 § 1

(special provision, adjustment rate statement expires chap 235/1980 § 2)

Sub c amended LL 11/1980 § 1

Sub b amended chap 403/1983 § 46

Sub i amended chap 403/1983 § 47

Sub e amended chap 448/1983 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Vote on rent guidelines order of Rent Stabilization Guidelines Board which was adopted when 8 members of 9 member board met and at which 4 members supported it and 3 opposed it and one member abstained was invalid since the affirmative vote of 5 board members is required.-Rent Stabilization Asso. of N.Y.C. v. Rent Guidelines Board for City of N.Y., 98 Misc. 2d 312, 413 N.Y.S. 2d 950 [1978].

¶ 2. Oral renewal agreements are part of the rent stabilization laws and tenant was deemed to have renewed without a written agreement by paying the appropriate increase for a three year term there being no evidence that owner rejected the rent payment.-Haley v. Clayton, 106 Misc. 2d 739 [1980].

¶ 3. Provision of section that rent guidelines board shall establish guidelines for rent adjustment annually does not prohibit the board from reviewing the residential real estate situation more than once during the year but merely mandates that the board do so not less frequently than once each year.-Coalition Against Rent Increase Passalongs v. Rent Guidelines Board, 104 Misc. 2d 101, 427 N.Y.S. 2d 660 [1979].

CASE NOTES

¶ 1. Defendant Ellen Gesmer, appointed as a "public member" of the Rent Guidelines Board, met the requirements to "have had at least five years experience in either finance, economics or housing" (Ad Cd §26-510(a)) because defendant's 11 years as a lawyer included substantial tenant advocacy. Rent Stabilization Assn. v. Dinkins, 167 A.D.2d 579, 562 N.Y.S.2d 411, leave to appeal denied 77 N.Y.2d 809, 571 N.Y.S.2d 912 (1st Dept. 1990).

¶ 2. An order granting tenant's petition to extent of remanding rent overcharge claim to DHCR reversed-DHCR's determination of claim was in accordance with Ad Cd §26-510(d) and applicable Rent Guidelines Orders, neither orders nor statutes condition vacancy increases on whether prior tenant maintained occupancy until lease terminated. Matter of Gellerman v. Higgins, 213 AD2d 309 [1995].

¶ 3. A landlord who ignored for nine years an administrative agency directive that the tenant be given a renewal lease, cannot be heard to complain that it was denied rent guidelines increases it would have realized had it complied nine years ago. Ansonia Associates v. New York State Division of Housing and Community Renewal, 194 A.D.2d 446, 599 N.Y.S.2d 275 (1st Dept. 1993).

¶ 4. The New York City Rent Guidelines Board conducted surveys of rents in order to determine the effect of the Rent Regulation Reform Act of 1997 on rents. Plaintiff board members sought copies of a Recent Renters and/or Recent Movers Report before the board took a vote on the rent guidelines increases which would be effective for the following year, but the chairman of the board refused to furnish them with copies of the report. Under the circumstances, the court held that since the statute required the board to consider relevant data before it took a vote, the vote was flawed. Accordingly, the court enjoined the board from implementing the rent guidelines increases until further order of the court. Rosenfeld v. New York City Rent Guidelines Board, N.Y.L.J., July 15, 1998, page 21, col. 2 (Sup.Ct. New York Co.).

¶ 5. The rent guidelines statute requires that prior to July 1 in every calendar year, the Rent Guidelines Board file with the City Clerk an Explanatory Statement of its findings for the preceding calendar regarding such matters as economic conditions in the real estate industry and projected costs. It is not permissible for the Board to file a generic list of items which are so broad as to be virtually unchanged from year to year. However, the court found the filed Explanatory Statement to be sufficient where it contained summaries on: (1) the price index for operating costs covering items used in maintaining rent stabilized buildings; (2) an income and expense review using a sample size of 12,000 buildings; (3) mortgage interest surveys; and (4) Consumer Price Index for the New York, Northeastern New Jersey Metropolitan area for a seven-year period. Thus, the court dismissed an Article 78 proceeding which had challenged the adequacy of the Explanatory Statement. Rent Stabilization Association v. N.Y.C. Rent Guidelines Board, 12 Misc.3d 1174(A), 820 N.Y.S.2d 845, 2006 WL 1789116 (Sup.Ct. New York Co.).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-511

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-511 Real estate industry stabilization association.

a. The real estate industry stabilization association registered with the department of housing preservation and development is hereby divested of all its powers and authority under this law.

b. The stabilization code heretofore promulgated by such association, as approved by the department of housing preservation and development, is hereby continued to the extent that it is not inconsistent with law. Such code may be amended from time to time, provided, however, that no such amendments shall be promulgated except by action of the commissioner of the division of housing and community renewal and provided further, that prior to the adoption of any such amendments, the commissioner shall (i) submit the proposed amendments to the commissioner of the department of housing preservation and development and allow such commissioner thirty days to make comments or recommendations on the proposed amendments, (ii) review the comments or recommendations, if any, made pursuant to clause (i) of this subdivision and make any revisions to the proposed amendments which the commissioner of the division of housing and community renewal deems appropriate provided that any such review and revision shall be completed within thirty days of receipt of such comments or recommendations and (iii) thereafter hold a public hearing on the proposed amendments. No provision of such code shall impair or diminish any right or remedy granted to any party by this law or any other provision of law.

c. A code shall not be adopted hereunder unless it appears to the division of housing and community renewal that such code:

(1) provides safeguards against unreasonably high rent increases and, in general, protects tenants and the public interest, and does not impose any industry wide schedule of rents or minimum rentals;

(2) requires owners not to exceed the level of lawful rents as provided by this law;

(3) provides for a cash refund or a credit, to be applied against future rent, in the amount of any rent overcharge collected by an owner and any penalties, costs, attorneys' fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules for which the owner is assessed;

(4) includes provisions requiring owners to grant a one or two year vacancy or renewal lease at the option of the tenant except where a mortgage or mortgage commitment existing as of April first, nineteen hundred sixty-nine, provides that the mortgagor shall not grant a one year lease;

(5) includes guidelines with respect to such additional rent and related matters as, for example, security deposits, advance rental payments, the use of escalator clauses in leases and provision for increase in rentals for garages and other ancillary facilities, so as to insure that the level of fair rent increase established under this law will not be subverted and made ineffective, provided further that notwithstanding any inconsistent provision of law, rule, regulation, contract, agreement, lease or other obligation, no owner, in addition to the authorized collection of rent, shall demand, receive or retain a security deposit or advance payment which exceeds the rent of one month for or in connection with the use or occupancy of a housing accommodation by (a) any tenant who is sixty-five years of age or older or (b) any tenant who is receiving disability retirement benefit or supplemental security income pursuant to the federal social security act for any lease or lease renewal entered into after July 1, 2002;

(5-a) provides that, notwithstanding any provision of this chapter, the legal regulated rent for any vacancy lease entered into after the effective date of this paragraph shall be as hereinafter provided in this paragraph. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this paragraph, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this chapter, the number of years that such housing accommodation has been subject to this chapter. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this paragraph be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this chapter including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to this section.

(6) provides criteria whereby the commissioner may act upon applications by owners for increases in excess of the level of fair rent increase established under this law provided, however, that such criteria shall provide (a) as to hardship applications, for a finding that the level of fair rent increase is not sufficient to enable the owner to maintain approximately the same average annual net income (which shall be computed without regard to debt service, financing costs or management fees) for the three year period ending on or within six months of the date of an application pursuant to such criteria as compared with annual net income, which prevailed on the average over the period nineteen hundred sixty-eight through nineteen hundred seventy, or for the first three years of operation if the building was

completed since nineteen hundred sixty-eight or for the first three fiscal years after a transfer of title to a new owner provided the new owner can establish to the satisfaction of the commissioner that he or she acquired title to the building as a result of a bona fide sale of the entire building and that the new owner is unable to obtain requisite records for the fiscal years nineteen hundred sixty-eight through nineteen hundred seventy despite diligent efforts to obtain same from predecessors in title and further provided that the new owner can provide financial data covering a minimum of six years under his or her continuous and uninterrupted operation of the building to meet the three year to three year comparative test periods herein provided; and (b) as to completed building-wide major capital improvements, for a finding that such improvements are deemed depreciable under the Internal Revenue Code and that the cost is to be amortized over a seven-year period, based upon cash purchase price exclusive of interest or service charges. Notwithstanding anything to the contrary contained herein, no hardship increase granted pursuant to this paragraph shall, when added to the annual gross rents, as determined by the commissioner, exceed the sum of, (i) the annual operating expenses, (ii) an allowance for management services as determined by the commissioner, (iii) actual annual mortgage debt service (interest and amortization) on its indebtedness to a lending institution, an insurance company, a retirement fund or welfare fund which is operated under the supervision of the banking or insurance laws of the state of New York or the United States, and (iv) eight and one-half percent of that portion of the fair market value of the property which exceeds the unpaid principal amount of the mortgage indebtedness referred to in subparagraph (iii) of this paragraph. Fair market value for the purposes of this paragraph shall be six times the annual gross rent. The collection of any increase in the stabilized rent for any apartment pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the stabilized rent as established or set in future years;

(6-a) provides criteria whereby as an alternative to the hardship application provided under paragraph six of this subdivision owners of buildings acquired by the same owner or a related entity owned by the same principals three years prior to the date of application may apply to the division for increases in excess of the level of applicable guideline increases established under this law based on a finding by the commissioner that such guideline increases are not sufficient to enable the owner to maintain an annual gross rent income for such building which exceeds the annual operating expenses of such building by a sum equal to at least five percent of such gross rent. For the purposes of this paragraph, operating expenses shall consist of the actual, reasonable, costs of fuel, labor, utilities, taxes, other than income or corporate franchise taxes, fees, permits, necessary contracted services and noncapital repairs, insurance, parts and supplies, management fees and other administrative costs and mortgage interest. For the purposes of this paragraph, mortgage interest shall be deemed to mean interest on a bona fide mortgage including an allocable portion of charges related thereto. Criteria to be considered in determining a bona fide mortgage other than an institutional mortgage shall include; condition of the property, location of the property, the existing mortgage market at the time the mortgage is placed, the term of the mortgage, the amortization rate, the principal amount of the mortgage, security and other terms and conditions of the mortgage. The commissioner shall set a rental value for any unit occupied by the owner or a person related to the owner or unoccupied at the owner's choice for more than one month at the last regulated rent plus the minimum number of guidelines increases or, if no such regulated rent existed or is known, the commissioner shall impute a rent consistent with other rents in the building. The amount of hardship increase shall be such as may be required to maintain the annual gross rent income as provided by this paragraph. The division shall not grant a hardship application under this paragraph or paragraph six of this subdivision for a period of three years subsequent to granting a hardship application under the provisions of this paragraph. The collection of any increase in the rent for any housing accommodation pursuant to this paragraph shall not exceed six percent in any year from the effective date of the order granting the increase over the rent set forth in the schedule of gross rents, with collectability of any dollar excess above said sum to be spread forward in similar increments and added to the rent as established or set in future years. No application shall be approved unless the owner's equity in such building exceeds five percent of: (i) the arms length purchase price of the property; (ii) the cost of any capital improvements for which the owner has not collected a surcharge; (iii) any repayment of principal of any mortgage or loan used to finance the purchase of the property or any capital improvements for which the owner has not collected a surcharge and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase

by the owner. For the purposes of this paragraph, owner's equity shall mean the sum of (i) the purchase price of the property less the principal of any mortgage or loan used to finance the purchase of the property, (ii) the cost of any capital improvement for which the owner has not collected a surcharge less the principal of any mortgage or loan used to finance said improvement, (iii) any repayment of the principal of any mortgage or loan used to finance the purchase of the property or any capital improvement for which the owner has not collected a surcharge, and (iv) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

(7) establishes a fair and consistent formula for allocation of rental adjustment to be made upon granting of an increase by the commissioner;

(8) requires owners to maintain all services furnished by them on May thirty-first, nineteen hundred sixty-eight, or as otherwise provided by law, in connection with the leasing of the dwelling units covered by this law;

(9) provides that an owner shall not refuse to renew a lease except:

(a) where he or she intends in good faith to demolish the building and has obtained a permit therefor from the department of buildings; or

(b) where he or she seeks to recover possession of one or more dwelling units for his or her own personal use and occupancy as his or her primary residence in the city of New York and/or for the use and occupancy of a member of his or her immediate family as his or her primary residence in the city of New York, provided however, that this subparagraph shall not apply where a tenant or the spouse of a tenant lawfully occupying the dwelling unit is sixty-two years of age or older, or has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment, unless such owner offers to provide and if requested, provides an equivalent or superior housing accommodation at the same or lower stabilized rent in a closely proximate area. The provisions of this subparagraph shall only permit one of the individual owners of any building to recover possession of one or more dwelling units for his or her own personal use and/or for that of his or her immediate family. Any dwelling unit recovered by an owner pursuant to this subparagraph shall not for a period of three years be rented, leased, subleased or assigned to any person other than a person for whose benefit recovery of the dwelling unit is permitted pursuant to this subparagraph or to the tenant in occupancy at the time of recovery under the same terms as the original lease. This subparagraph shall not be deemed to establish or eliminate any claim that the former tenant of the dwelling unit may otherwise have against the owner. Any such rental, lease, sublease or assignment during such period to any other person may be subject to a penalty of a forfeiture of the right to any increases in residential rents in such building for a period of three years; or

(c) where the housing accommodation is owned by a hospital, convent, monastery, asylum, public institution, college, school dormitory or any institution operated exclusively for charitable or educational purposes on a non-profit basis and either:

(i) the tenant's initial tenancy commenced after the owner acquired the property and the owner requires the unit in connection with its charitable or educational purposes including, but not limited to, housing for affiliated persons; provided that with respect to any tenant whose right to occupancy commenced prior to July first, nineteen hundred seventy-eight pursuant to a written lease or written rental agreement and who did not receive notice at the time of the execution of the lease that his or her tenancy was subject to non-renewal, the institution shall not have the right to refuse to renew pursuant to this subparagraph; provided further that a tenant who was affiliated with the institution at the commencement of his or her tenancy and whose affiliation terminates during such tenancy shall not have the right to a renewal lease; or

(ii) the owner requires the unit for a non-residential use in connection with its charitable or educational purposes; or

(d) on specified grounds set forth in the code consistent with the purposes of this law; or

(e) where a tenant violates the provisions of paragraph twelve of this subdivision.

(9-a) provides that where an owner has submitted to and the attorney general has accepted for filing an offering plan to convert the building to cooperative or condominium ownership and the owner has presented the offering plan to the tenants in occupancy, any renewal or vacancy lease may contain a provision that if a building is converted to cooperative or condominium ownership pursuant to an eviction plan, as provided in section three hundred fifty-two-eeee of the general business law, the lease may only be cancelled upon the expiration of three years after the plan has been declared effective, and upon ninety days notice to the tenant that such period has expired or will be expiring.

(10) specifically provides that if an owner fails to comply with any order of the commissioner or is found by the commissioner to have harassed a tenant to obtain vacancy of his or her housing accommodation, he or she shall, in addition to being subject to any other penalties or remedies permitted by law, be barred thereafter from applying for or collecting any further rent increase. The compliance by the owner with the order of the commissioner or the restoration of the tenant subject to harassment to the housing accommodation or compliance with such other remedy as shall be determined by the commissioner to be appropriate shall result in the prospective elimination of such sanctions;

(11) includes provisions which may be peculiarly applicable to hotels including specifically that no owner shall refuse to extend or renew a tenancy for the purpose of preventing a hotel tenant from becoming a permanent tenant; and

(12) permits subletting of units subject to this law pursuant to section two hundred twenty-six-b of the real property law provided that (a) the rental charged to the subtenant does not exceed the stabilized rent plus a ten percent surcharge payable to the tenant if the unit sublet was furnished with the tenant's furniture; (b) the tenant can establish that at all times he or she has maintained the unit as his or her primary residence and intends to occupy it as such at the expiration of the sublease; (c) an owner may terminate the tenancy of a tenant who sublets or assigns contrary to the terms of this paragraph but no action or proceeding based on the non-primary residence of a tenant may be commenced prior to the expiration date of his or her lease; (d) where an apartment is sublet the prime tenant shall retain the right to a renewal lease and the rights and status of a tenant in occupancy as they relate to conversion to condominium or cooperative ownership; (e) where a tenant violates the provisions of subparagraph (a) of this paragraph the subtenant shall be entitled to damages of three times the overcharge and may also be awarded attorneys fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules; (f) the tenant may not sublet the unit for more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The provisions of this subparagraph shall only apply to subleases commencing on and after July first, nineteen hundred eighty-three; (g) for the purposes of this paragraph only, the term of the proposed sublease may extend beyond the term of the tenant's lease. In such event, such sublease shall be subject to the tenant's right to a renewal lease. The subtenant shall have no right to a renewal lease. It shall be unreasonable for an owner to refuse to consent to a sublease solely because such sublease extends beyond the tenant's lease; and (h) notwithstanding the provisions of section two hundred twenty-six-b of the real property law, a not-for-profit hospital shall have the right to sublet any housing accommodation leased by it to its affiliated personnel without requiring the landlord's consent to any such sublease and without being bound by the provisions of subparagraphs (b), (c) and (f) of this paragraph. Commencing with the effective date of this subparagraph, whenever a not-for-profit hospital executes a renewal lease for a housing accommodation, the legal regulated rent shall be increased by a sum equal to fifteen percent of the previous lease rental for such housing accommodation, hereinafter referred to as a vacancy surcharge, unless the landlord shall have received within the seven year period prior to the commencement date of such renewal lease any vacancy increases or vacancy surcharges allocable to the said housing accommodation. In the event the landlord shall have received any such vacancy increases

or vacancy surcharges during such seven year period, the vacancy surcharge shall be reduced by the amount received by any such vacancy increase or vacancy surcharges.

(13) provides that an owner is entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The permanent increase in the legal regulated rent for the affected housing accommodation shall be one-fortieth of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost off installation, but excluding finance charges. Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

(14) provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law. Where, subsequent to vacancy, such legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law is two thousand dollars or more per month, such housing accommodation shall be excluded from the provisions of this law pursuant to section 26-504.2 of this chapter.

d. (1) Each owner subject to the rent stabilization law shall furnish to each tenant signing a new or renewal lease, a rider describing the rights and duties of owners and tenants as provided for under the rent stabilization law of nineteen hundred sixty-nine. Such publication shall conform to the intent of section 5-702 of the general obligations law and shall be attached as an addendum to the lease. Upon the face of each lease, in bold print, shall appear the following: "Attached to this lease are the pertinent rules and regulations governing tenants and landlords' rights under the rent stabilization law of nineteen hundred sixty-nine".

(2) The rider shall be in a form promulgated by the commissioner in larger type than the lease and shall be utilized as provided in paragraph one of this subdivision.

e. Each owner of premises subject to the rent stabilization law shall furnish to each tenant signing a new or renewal lease, a copy of the fully executed new or renewal lease bearing the signatures of owner and tenant and the beginning and ending dates of the lease term, within thirty days from the owner's receipt of the new or renewal lease signed by the tenant.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. c par (5) amended chap 532/2002 § 2, eff. Sept. 17, 2002.

Subd. c par (5-a) added chap 116/1997 § 19, eff. June 19, 1997 and deemed in force on and after

June 15, 1997.

Subd. c par (6) amended chap 116/1997 § 43-a, eff. June 19, 1997 and applies to pending and

subsequent actions and proceedings.

Subd. c par (6) amended chap 749/1990 § 3 eff. July 22, 1990 with expiration provisions.

Subd. c par (13) added chap 253/1993 § 19, eff. July 7, 1993.

Subd. c par (14) added chap 82/2003 § 6, eff. June 20, 2003.

DERIVATION

Formerly § YY51-6.0 added LL 16/1969 § 1

Sub c par 9 amended LL 50/1969 § 1

Sub a designated and amended LL 51/1969 § 7

(formerly open par)

Sub b amended LL 51/1969 § 8

Sub d repealed LL 51/1969 § 10

(reenacted as § YY51-6.2)

(Conciliation and appeals board continued chap 576/1974 § 6)

Sub c clause 2 amended chap 576/1974 § 10

Sub b par 3 amended LL 1/1974 § 3

Sub c par 4 ameneded LL 51/1974 § 4

Sub c par 13 added LL 51/1974 § 5

(Separability, expiration date LL 51/1974 §§ 6, 7)

(LL 51/1974 § 7 amended LL 39/1976 § 1)

(LL 51/1974 § 7 amended LL 46/1977 § 1)

Sub c par 6 amended chap 392/1975 § 1

(special provision, pending applicant chap 392/1975 § 2)

Sub c par 6 amended chap 549/1975 § 1

Sub c par 4 amended LL 33/1975 § 4

Sub c par 9 subpars a, f amended chap 432/1979 § 3

(legislative findings, non-purchasing tenants, chap 432/1979 § 1)

Sub d added LL 22/1979 § 1

Sub d added LL 70/1979 § 1

Sub c par 9 repealed chap 555/1982 § 6

Sub c pars 9, 9-a added chap 555/1982 § 6

(special provisions, regulations chap 555/1982 § 7)

(see expiration date chap 555/1982 § 10)

Amended chap 403/1983 § 9

(legislative findings, extend provisions, avert evictions chap 403/1983 § 1)

Sub c par 4 amended chap 403/1983 § 48

Sub c par 6-a added chap 403/1983 § 49

Sub c par 9 amended chap 403/1983 § 50

Sub c par 14 added chap 403/1983 § 51

Sub e added chap 439/1984 § 2

Sub c par 12 amended chap 940/1984 § 2

(see expiration date, chap 940/1984 § 5)

Sub a amended chap 888/1985 § 1

Sub b amended chap 888/1985 § 2

Sub c open par amended chap 888/1985 § 3

Sub c par 9 subpar d amended chap 888/1985 § 4

(special provisions, amendment of rent code, chap 888/1985 § 7)

(see expiration, chap 888/1985 § 11)

CASE NOTES FROM FORMER SECTION

¶ 1. Landlord, who following enactment of the Rent Stabilization Law of 1969 tendered tenant an extension of his former two year lease to three years at a monthly increase of 25% with an option to the tenant to cancel after two years, could not succeed in a nonpayment proceeding when tenant refused the offer on the ground that landlord was bound by the two year term of the original lease and was only entitled to an increase of 15%. Contention of landlord that he could unilaterally tender a three year was contrary to the express requirements of this section. Berfont v. Hoffman, 65 Misc. 2d 506, 319 N.Y.S. 2d 44 [1970]. aff'g, 61 Misc. 2d 330, 305 N.Y.S. 2d 200 [1969].

¶ 2. Under this section an owner need not offer a tenant a renewal lease for his own use and a decision of the Conciliation and Appeals Board will not bind the court on that issue when the owner begins a proceeding to remove the tenant from possession. Alden v. Callahan, 65 Misc. 2d 183, 317 N.Y.S. 2d 560 [1970].

¶ 3. Tenant in rent controlled premises did not have a cause of action for treble damages when evicted from his apartment so that landlord could construct a new building with 20% more housing accommodations because landlord personally failed to complete demolition and construct new building when such work was done by purchaser. Finkel v. Carol Management Corp., 66 Misc. 2d 593, 321 N.Y.S. 2d 978 [1971].

¶ 4. Where owner of apartment building seeking to convert it into cooperative ownership induced the required number of tenants to sign purchase agreements by fraudulently representing that he had already obtained the requisite

percentage, the cooperative corporation which was the present owner of the building was required to enter into leases with nonpurchasing tenants granting them their present rights under the Rent Stabilization Law. Richards v. Kaskel, 32 N.Y. 2d 679, 343, N.Y.S. 2d 360, 296 N.E. 2d 256 [1973].

¶ 5. Plan of co-operative organization became effective when 35% of tenants in building purchased shares prior to expiration of 18 months from first filing of plan and plan was not rendered ineffective by filing by attorney general after the 18 month period of an amendment to the plan which announced the declaration of effectiveness. Smit v. 114 Tenants Corp., 72 Misc. 2d 522, 339 N.Y.S. 2d 706 [1972].

¶ 6. Where the required 35% of tenants "then in occupancy" included four tenants who agreed to purchase apartments which became vacant after the plan was offered, but whose occupancy had not yet begun at the time the plan was declared effective, acceptance of plan by attorney general was in violation of law.-Ten Forty-Five Fifth Avenue Tenants Asso. v. Attorney General, 73 Misc. 2d 600, 342 N.Y.S. 2d 769 [1973].

¶ 7. Where landlord filed application for hardship rental increases with N.Y.C. Conciliation and Appeals Board the board must conduct a meaningful review of the application and cannot delegate its duties to the tenants by assuming that information submitted by landlord is true unless tenants submit contrary information while at the same time refusing the tenants the right to audit landlord's account.-Matter of Windsor Park Tenants' Association v. N.Y.C. Concilation and Appeals Board, 59 App. Div. 2d 121 [1977].

¶ 8. Landlord who seeks to recover possession of a dwelling unit for his own personal use and occupancy must be a natural person and cannot be a corporation.-Henrock Realty Corp. v. Tuck, 52 App. Div. 2d 872 [1976].

¶ 9. The Plain English Law applies to renewal leases of stabilized tenant and upon request of tenant renewal leases must be rewritten in a clear and coherent manner using words with common and every day meanings and appropriately divided and captioned by its various sections.-Francis Apts. v. McKittrick, 104 Misc. 2d 693, 429 N.Y.S. 2d 516 [1979].

¶ 10. When primary tenant of an unfurnished rent stabilized apartment sublet it furnished for a period of 18 months determination of Conciliation and Appeals Board that lessor is entitled to an increase in the stabilized rent of not over 10% was not arbitrary.-Krantz v. Conciliation and Appeals Board of City of New York, 86 App. Div. 2d 801 [1982].

¶ 11. Tenant who does not purchase under a "noneviction" cooperative conversion plan has a right to continue occupancy as against a purchaser of his apartment.-Tarman v. Rowe, 112 Misc. 2d 708 [1982].

¶ 12. On Feb. 28, 1983, petitioners failed to renew tenant's lease on grounds that they seek possession for use or occupancy of their immediate family and themselves pursuant to § YY51-6.0(c)(9)(b). Such provisions did not become effective until June 30, 1983. Prior law required renewal of lease. Amendment by legisl. was not retroactive and so is hardly applicable to renewals on or after effective date. Petitioner violated law in effect at time, tenant is entitled to renewal of lease.-Deniel Reilly et al. v. Steven Labovsky, 120 Misc. 2d 478 [1983].

¶ 13. Educational institution that owns apt. building must offer tenant whose right to occupancy commenced prior to July 1, 1978 under written lease or rental agreement who did not receive notice at time of execution of lease that his tenancy was subject to nonrenewal. [See § YY51-6.0(c)(9)(c)(i)]. In spite of the fact that apt. and educational institution were originally exempt from rent stabilization.-Browning School v. N.Y.C. Conciliation and Appeals Bd., 122 Misc. 2d 124 [1983].

¶ 14. § YY51-6.0(c)(9) authorized adoption of § 54(b) of the rent stabilization code. As amended by L. 1983, ch. 555, § 6, that paragraph (c)(9) is repealed. Therefore so is § 54(b) of the rent stabilization code which authorized owners to recover possession of an apt. for the use of themselves or immediate family.-Kamm v. Drake, 189 (32) N.Y.L.J. (2-16-83) 13, col. 2B. See also Kamm v. Cotton, 189 (61) N.Y.L.J. (3-30-83) 13, col. 4B. See also Bauer v. Zafirau, 189 (80) N.Y.L.J. (4-26-83) 12, col. 1M.

¶ 15. Subdivision (c)(14)(g) specifically provides that an owners refusal to consent to a sublease, on the ground that the tenant was seeking to sublet for a period subsequent to the expiration of the current lease, shall be unreasonable since the estate of a stabilized tenant will automatically extend beyond the expiration of any given lease when the renewal option is exercised.-72nd St. Assoc. v. Pyle, 124 Misc. 2d 1087 [1984].

¶ 16. Subdivision (c)(14) is applicable to actions pending at the effective date of the amendments thereto.-Tagert v. 211 East 70th St. Co., 63 NY2d 818 [1984].

¶ 17. Subdivision (c)(9)(b) provides that a landlord who seeks to recover a rent-stabilized apartment for his primary residence from a tenant who is 62 years of age or older must make an offer to the tenant of comparable housing at the same or lower rent in a closely proximate area and a petition failing to allege such offer is defective.-Schreier v. Albrecht, 126 Misc. 2d 336 [1984].

¶ 18. An apartment in a building which has been substantially rehabilitated in that it was converted from a Class B boarding house with 17 apartments to a Class A apartment with 5 units, is not subject to rent stabilization.-Nelson v. Yates, 193 (47) N.Y.L.J. (3-12-85) 7, Col. 2 T.

¶ 19. Rent increases exceeding 6 per cent per year are excessive and in violation of the rent stabilization law provisions.-Bryant Ave. Tenants' Assoc. v. Koch, 193 (61) N.Y.L.J. (4-1-85) 14, Col. 4 B.

CASE NOTES

¶ 1. In a cooperative conversion a husband in the process of divorce retained a sufficient connection to apartment to qualify as a tenant in occupancy. The critical date is when the offering plan is accepted by the Attorney-General per NYC Ad Cd § YY51-6.0(c)(9-a)[§ 26-511(c)(9-a)], Rent Stabilization Association Code § 61(4)(b). Manolovici v. 136 E.64th St. Assocs., 122 AD2d 649, 70 NY2d 785 [1987].

¶ 2. Eight rent stabilized tenants bring class action challenging the legality of certain rent increases for major capital improvements. Two classes defined-tenants and landlords. Bryant Ave Tenants' Assoc. v. Koch, 131 AD2d 318 [1987].

¶ 3. Petitioner's membership in Rent Stabilization Association was terminated because of failure to produce documentation of rental history to CAB to determine lawful rent. They did produce some evidence but left a one year gap. Former § YY51-6.0(c)(10)(11)[§ 26-511], such paragraph having been repealed by ch 403 of 1983, provided for expulsion of owner who did not comply with "order" of CAB. But no formal "order" was issued in this case and the expulsion of an entire building was excessive. Matter of Milevoi v. Conciliations and Appeals Board, 137 AD2d 533 [1988].

¶ 4. Under rent stabilization law a renewal lease must be offered to a "tenant", § YY51-6.0(c)(4)[§ 26-511(c)(4)]. There is no definition of the term "tenant" forcing use of lease definition. "Gay life partner" of deceased tenant does not qualify as a "family member". Collins v. Next West Mgt. 137 Misc. 2d 632 [1987].

¶ 5. In holdover summary proceeding a granddaughter moved into subject premises over 2 years prior to death of "tenant" and grandson, a disabled person, moved in over 1 year prior to tenants' death. They have right to renewal lease. Rent Stabilization Code § 2523.5(b)(2) which rules here superseded a contradiction court ruling and remedial statute should be applied broadly to avoid hardship. N.Y. Life v. Estate of Haelen, 137 Misc. 2d 639 [1987].

¶ 6. While the Rent Control Law contains succession rights in rent controlled apartments the Rent Stabilization Law provides no such succession rights. The Legislature did this purposely to make them less onerous. The new Rent Stabilization Code, eff. May 1, 1987, violates § 26-511(b) by granting "succession rights" to family members representing an unconstitutional intrusion of Legislative domain by an administrative agency. East Four-Forty Associates v. Ewell, 138 Misc. 2d 235 [1988].

¶ 7. Rent increases for major capital improvements should not be permanently incorporated into the base rent of each apartment unit. Cost of such improvements should be "amortized over a five-year period" per § 26-511(c)(6)(b), that is payments should last a definite period and stop after costs have been recovered by landlord. In this case major capital improvement includes trash compactor, heating and elevator work. Ansonia Residents v. DHCR, 141 Misc. 2d 224 [1988], affirmed 75 NY2d 206.

¶ 8. Attempting to recover possession owner wrote "I am not able to renew your lease as I want Apt. 1A for my own use." In this case owner wanted possession for his fathers use. Notice provision was violated because the phrase "for my own personal use" is not the same as "my immediate family use". Powers v. Babic, 141 Misc. 2d 344 [1988].

¶ 9. Sublessee is protected by rent overcharge provisions of the code. Prime tenant may not charge rent that exceeds the legal stabilized rent, § 26-511(c)(12). If prime tenant and sublessee cohabit the proper rent charged to sublessee should be negotiated as in any contract. Diamond v. Menasche, 141 Misc. 2d 899 [1988].

¶ 10. Landlord may not create a self-executing rent increase without the approval of the commissioner of housing and community renewal pursuant to § 26-511(c)(7). Court has no authority to order rent increase when statute is so clear. Aron Assocs. v. DeLaCruz, 141 Misc. 2d 1044 [1988].

¶ 11. Division of Housing and Community Renewal in a proper exercise of statutory authority acted rationally in furtherance of its duty regarding the critical housing shortage in the city by amending the Rent Stabilization Code allowing relatives residing with a tenant to have succession rights to lease. Festa v. Leshin, 138 Misc. 2d 399 reversed, Festa v. Leshen, 145 AD2d 49 [1989].

¶ 12. Tenant reached age 62 years during pendency of owner occupancy proceeding claiming personal use exception and is protected by § 26-511(c)(9)(b) unless owner proves personal use contention and provides equivalent or superior alternate accommodations. Prior appeals of an intermediate nature do not equate with bad faith on tenants part. Blane v. Isles, 142 Misc. 2d 1 [1988].

¶ 13. Hospital is entitled to renewal lease because it is the named tenant on the expired lease. Nurses who sublease from hospital are not entitled to renewal leases pursuant to § 26-511(c)(12)(g) as that is not their primary residences. 520 E. St. v. Lenox Hill Hosp., 142 Misc. 2d 723 [1988] reversed, 157 AD2d 138 [1990].

¶ 14. Cooperatives do not qualify for alternative hardship rent increases pursuant to § 26-511(c)(6-a). This section applies to "owners of buildings" and cooperatives don't qualify. Grand Leasing v. DHCR, 147 AD2d 562 [1989].

¶ 15. Plaintiffs, as low-income, rent-stabilized tenants may commence a class action for a declaratory judgement to challenge the validity of section 41 of the Code of the Rent Stabilization Association of New York City as violative of section YY51-6.0(c)(6) (26-511) of the Ad Code. Bryant Ave. Tenants' Assn. v. Koch, 127 AD2d 470, affirmed, 71 NY2d 856 [1988].

¶ 16. When owner has an equity relationship with contractor a rent increase based on major capital improvement may not be based on the "J-51" cost schedule. Court found the schedule violates § 26-511(c)(6)(b) which requires that rent increases be based on the actual cost of the MCI, which is not the measure used in HPD's J-51 schedule. Matter remanded for determination of actual cost. Artha MGT v. DHCR, 143 Misc. 2d 717 [1989].

¶ 17. DHCR was given the authority to amend the Rent Stabilization Code and to adopt provisions which "in general, protects tenants and the public interest" (§ 26-511 (c)(1)). It was an exercise of this authority in promulgating 9 NYCRR 2523.5.(b)(2) allowing family member of deceased tenant a renewal lease. Cohen v. Berger, 153 AD2d 920 [1989].

¶ 18. Plaintiffs challenged validity of certain sections of the Rent Stabilization Code on ground their promulgation is beyond scope of defendant's legislative authorization, which specifies "no provision of such code shall impair or

diminish any right or remedy granted to any party by this law or any other provision of law," §26-511(b). The gravemen of plaintiff's challenges are "purely legal" and are directed at defendant's authority to promulgate particular regulations does not require examination of facts not yet developed. Complaint is reinstated. Community Hous. Imp. Program v. NYS DHCR, 175 AD2d 905, 573 N.Y.S.2d 522 [1991].

¶ 19. Tenant in occupancy and not an "illusory tenant" has right to purchase shares when building is under cooperative conversion, pursuant to former Ad Cd §YY51-6.0(c)(9)(b). There is common-law distinction between subletting, which Ad Cd §26-511(c)(12) permits and assignment which it does not. Animus revertendi, the intention to return to the prremises is the criteria which a tenant is judged to have conveyed a sublease and length of time the tenant has relinquished occupancy remains a salient consideration. Bruenn v. Cole, 165 AD2d 443, 568 N.Y.S.2d 351 [1991].

¶ 20. Rent Stabilization Law, Ad Cd §26-511(c)(7), does not specifically require a DHCR "order" for rent increases based on improvements to the premises but only that DHCR approve such increases, which it has done by setting forth the formula for rent increases contained in the code. Trio Realty Co. v. Cofield, 161 Misc.2d 244, 573 N.Y.S.2d 228 [1991].

¶ 21. In Manocherian v. Lenox Hill Hospital, 84 N.Y.2d 385, 618 N.Y.S.2d 857, cert denied 514 US 1109, 115 S.Ct. 1961, 131 L.Ed.2d 853, the court struck down on constitutional grounds a portion of the statute which would have permitted not-for-profit hospitals to lease rent stabilized units in perpetuity for the purpose of subleasing them to hospital staff members. The court held that the statute called for an impermissible "taking" within the meaning of the due process section of the Constitution. Subsequently, the court held that subtenants of the hospital did not have renewal rights for their apartments. Manocherian v. Lenox Hill Hospital, 229 A.D.2d 197, 654 N.Y.S.2d 339 (1st Dept. 1997), motion for leave to appeal denied, 90 N.Y.2d 835, 660 N.Y.S.2d 710 (1997).

¶ 22. The collection of a temporary retroactive rent increase of up to 6% annually (9 NYCRR 2522.4(a)(8)) in addition to collection of permanent rent increase of up to 6% for major capital improvements (MCI) violates Ad Cd §26-511(c)(6) because it permits the collection of an aggregate rent increase in excess of 6% in a year. The court also ruled that the merger of MCI rent increases into base rent of stabilized tenants and any resulting compounding effect caused by the application of rent guideline increases to the increased base rent is proper under Ad Cd §26-511(c) and condoned by Ansonia Residents Assn. v. DHCR, 75 NY2d 206. Bryant Ave. Tenants Assn. v. Koch, 196 AD2d 766 modified 84 NY2d 960 [1994].

¶ 23. Bryant Avenue Tenants Association v. Koch, 84 N.Y.2d 960, 620 N.Y.S.2d 825 (1994). A rent increase attributable to a Major Capital Improvement (MCI) is merged into the base rent, for purposes of calculating rent guidelines increases. In other words, the MCI increase becomes a permanent part of the rent. However, the court held that the maximum MCI increase which can be collected in one year is six percent.

¶ 24. The statute provides that if a building is converted to cooperative ownership pursuant to an eviction plan, a non-purchasing tenant may remain in occupancy for up to three years after the conversion plan has been declared effective. However, where a prospective purchaser of a vacant apartment signs a subscription agreement to purchase the shares allocated to the apartment and then takes occupancy pursuant to an interim lease, the three year rule does not apply.

¶ 25. Normally, where there is an eviction plan, non-purchasing tenants may remain in occupancy for up to three years after the plan is declared effective. However, this rule does not apply where a prospective purchaser of a vacant apartment signs a subscription agreement to purchase the shares representing ownership in that apartment and takes possession under an interim lease. Goodman v. 303 Beverly Owners Corp., 184 A.D.2d 748, 585 N.Y.S.2d 774 (2nd Dept. 1992).

¶ 26. The State Division of Housing and Community Renewal has exclusive jurisdiction over the landlord's application for permission to demolish a building occupied by rent stabilized tenants. Sohn v. Calderon, 78 N.Y.2d 755,

579 N.Y.S.2d 940 (1991).

¶ 27. The landlord is not required to obtain approval of the State Division and Community Renewal before collecting a rent increase by reason of improvement and new equipment installed in an individual apartment. Global Management v. Richards, 152 Misc.2d 759, 587 N.Y.S.2d. 473 (App.Term 2nd & 11th Judic. Dists. 1992),

¶ 28. Where the statute governing Major Capital Improvements (MCI) permits the owner to obtain an MCI based on the actual cash costs of the improvements, the state agency cannot substitute a schedule of costs used by the New York City Dept. of Housing Preservation and Development in "J-51" tax abatement cases (see Admin. Code § 11-243) which would provide significantly lower increases for the owner. Artha Management, Inc. v. New York State Division of Housing and Community Renewal, 143 Misc.2d 717, 541 N.Y.S.2d 722.

¶ 29. Even where an item is depreciable under the Internal Revenue Code, it will not qualify for MCI treatment unless it is building wide and constitutes an improvement to the building. Garden Bay Manor Associates v. New York State Division of Housing and Community Renewal, 150 A.D.2d 378, 540 N.Y.S.2d 665 (2nd Dept. 1989).

¶ 30. The application of waterproof covering, accompanied by a minimal amount of pointing, does not qualify for MCI treatment. Poseidon Realty Holding Corp. V. New York State Division of Housing and Community Renewal, 650 N.Y.S.2d 241 (App.Div. 2nd Dept. 1996).

¶ 31. Apparently, the tenant's failure to timely exercise a renewal lease can be cured, so as to save the tenancy. See Fairbanks Gardens Co. v. Ghandi, N.Y.L.J., Apr. 9, 1996, page 33, col. 3 (App.Term 2nd & 11th Judic. Dists); 923 Fifth Avenue Associates v. Eisenberg, 191 A.D.2d 396 (1st Dept.).

¶ 32. The State Division of Housing and Community Renewal reasonable interpreted the law to mean that an owner must file a major capital improvement rent increase application within two years of the physical completion of the MCI work. Metropolitatn Life Ins. Co. v. New York State Division of Housing and Community Renewal, 653 N.Y.S.2d 318 (1st Dept. 1997).

¶ 33. Although a Major Capital Improvement generally must be building-wide in order for a landlord to qualify for a rent increase, the landlord was given an increase where only one out of 204 apartments was not improved. Carol Management Corp. v. New York State Division of Housing and Community Renewal, 140 Misc.2d 673, 531 N.Y.S.2d 839 (Sup.Ct. Queens Co. 1988).

¶ 34. A corporation, North Star Graphics, leased a rent stabilized apartment in the corporate name, but the apartment was, with the landlord's consent, occupied by an individual, Cohen, who was designated by the corporation but who was not a shareholder. The lease stated that the tenant agreed that during the term of the lease, the apartment would be occupied by the Cohen or such corporate officials as North Star might designate. Subsequently, the building underwent a cooperative conversion and Spitzer, formerly a principal of the landlord, now held the shares representing ownership of the apartment. When the Spitzer later claimed that North Star was violating its lease by permitting a non-shareholder to occupy the apartment, the court held that North Star now had the right to renew the lease as tenant of record, with Cohen as a designated occupant. Thus, a corporation has the power to designate persons, who are not corporate officers or employees, to occupy rent stabilized apartments leased by the corporation. North Star Graphics, Inc. v. Spitzer, 135 A.D.2d 401, 521 N.Y.S.2d 699 (1st Dept. 1987). See also, Cale Dev. v. Conciliation and Appeals Board, 94 A.D.2d 229, 463 N.Y.S.2d 814 (1st Dept. 1983), aff'd 61 N.Y.2d 976, 475 N.Y.S.2d 278 (1984).

¶ 35. The court upheld the rent agency interpretation of the major capital improvement (MCI) law to mean that an owner must file an MCI increase application within two years of the physical completion of the work, rather than within two years of the subsequent procurement of the required governmental approval of the work. The court indicated that DCHR was not inflexible in the application of the rule and that the instant MCI's were denied in part because even after the needed governmental approvals were obtained, and a substantial time remained on the two year period, landlord had failed to act complete the MCI. Metropolitan Life Ins. v. New York State Division of Housing and Community

Renewal, 235 A.D.2d 354, 653 N.Y.S.2d 318 (App.Div. 1st Dept. 1997).

¶ 36. After a cooperative conversion has been declared effective, the holder of unsold shares cannot obtain an alternative hardship rent increase. Grand Leasing Co. v. New York State Division of Housing and Community Renewal, 134 Misc.2d 133, 509 N.Y.S2d 768 (Sup.Ct. Queens Co. 1986).

¶ 37. Where a cooperative conversion plan has been presented to tenants, but a tenant dies before exercising the right to purchase, the estate of the deceased tenant cannot exercise the right to purchase. An offeree's power of acceptance terminates when the offeree dies. DeKovessey v. Coronet Properties Co., 69 N.Y.2d 448, 515 N.Y.S.2d 740 (1987). Note, however, that if a tenant dies **after** having tendered a subscription agreement for the shares, the estate of the tenant can exercise the right to purchase. See Weinstein v. Hohenstein, 69 N.Y.2d 1017, 517 N.Y.S.2d 907 (1987), which involved a rent controlled tenancy, but the same principles are applicable to a rent stabilized tenancy.

¶ 38. A Major Capital Improvement (MCI) must inure to the benefit of all tenants. Where DHCR found that 18 percent of the newly installed apartment windows had substantial defects, and there was no evidence showing that the defects were due to wear and tear or vandalism rather than poor installation, the agency had a rational basis for denying an MCI. Simkowitz v. DHCR, 256 A.D.2d 51, 680 N.Y.S.2d 525 (App.Div. 1st Dept. 1998).

¶ 39. DHCR had a rational basis for denying an MCI increase where there were tenant complaints of continuing leaks and water damage, the contractor submitted a statement indicating that it had worked on only part of the building, and the contractor was subsequently required to do additional pointing work on the building. Cenpark Realty Co. v. DHCR, 257 A.D.2d 543, 685 N.Y.S.2d 26 (App.Div. 1st Dept. 1999).

¶ 40. In one case, improvements made to an individual apartment were completed prior to the effective date of the lease, when the apartment was still vacant. The court held that even though the tenant had actually executed the lease before work on the improvement began, the tenant's consent to the work was not needed. Elisofon v. DHCR, 262 A.D.2d 40, 691 N.Y.S.2d 434 (1st Dept. 1999), leave to appeal denied, 94 N.Y.2d 757, 704 N.Y.S.2d 532 (1999).

¶ 41. A court held that state housing agency did not act arbitrarily in promulgating Rent Stabilization Code § 2522.4(a)(8), which requires that applications for Major Capital Improvement (MCI) rent increases be filed within two years after completion of the MCI. Hampton Mgmt. v. DHCR, 255 A.D.2d 261, 680 N.Y.S.2d 245 (1st Dept. 1998), appeal denied 93 N.Y.2d 806, 691 N.Y.S.2d (1999).

¶ 42. In an owner occupancy proceeding, the landlord's good faith need to acquire the apartment for personal use or use of a family member is often a disputed question of fact. Thus, the court will grant the tenant discovery on the question. Perlman v. Martinez, N.Y.L.J., Jan. 6, 1999, page 27, col. 6 (Civ.Ct. Kings Co.).

¶ 43. A tenant who is disabled may be able to defeat an owner occupancy proceeding. However, a tenant who asserts such disability has placed his or her medical condition in issue, and the landlord can be granted discovery regarding the tenant's medical condition. Banchik v. Ruggieri, N.Y.L.J., Nov. 18, 1998, page 29, col. 4 (Civ.Ct. New York Co.).

¶ 44. Where a landlord brings an owner occupancy proceeding alleging that her son needs the apartment, the tenant will be allowed discovery regarding the landlord's family situation. Perlman v. Martinez, N.Y.L.J., Jan. 6, 1999, page 27, col. 6 (Civ.Ct. Kings Co.).

¶ 45. Although the existence of a rent reduction order pursuant to Admin. Code 26-514 precludes the landlord from collecting guidelines increases, it does not prevent the landlord from obtaining a vacancy increase where a tenant has moved out of the apartment. I.G. Second Generation Partners v. Young, May 1, 2002, page 22, col. 6 (Civ.Ct. New York Co.).

¶ 46. A landlord sought to remove a senior citizen tenant from an apartment under the owner occupancy statute

and offered the tenant an alternative apartment. The offered apartment had a rent higher than that of the subject apartment, and was located on a relatively high floor in this walk-up building. Thus, the tenant, who had difficulty in walking, would have had problems negotiating the stairs. The court held that the offer was not sufficient to meet the requirements of the owner occupancy laws. Tsororos v. Lauriello, N.Y.L.J., Apr. 8, 1998, page 32, col. 5 (Civ.Ct. Kings Co.).

¶ 47. Where a landlord has installed new windows throughout the building, and all but a few windows are satisfactory, DHCR can permit an MCI increase for tenants in the building, exempting those units where there are still problems with the windows. Apparently, there are no specific agency procedures to be followed by a landlord who claim that the problems have been corrected, but the landlord will not be able to collect the increase until the agency or court has found that the conditions have in fact been corrected. Ace Fenimore Realty Corp. v. Weeks, N.Y.L.J., Dec. 22, 1999, page 34, col. 3 (Civ.Ct. Kings Co.).

¶ 48. The installation of new windows will not qualify for an MCI increase, where a substantial number of the new windows are defective. Duell v. DHCR, 269 A.D.2d 235, 703 N.Y.S.2d 37 (App.Div. 1st Dept.).

¶ 49. Where a tenant never received proper notice of the landlord's application for a Major Capital Improvement increase while the case was before the District Rent Administrator, the tenant will be able to raise new matters in a Petition for Administrative Review. Quiroz v. DHCR, 181 Misc.2d 734, 695 N.Y.S.2d 279 (Sup.Ct. New York Co. 1999).

¶ 50. Although a landlord who fails to maintain required services may lose guidelines increases, this will not affect the landlord's entitlement to Major Capital Improvement increases or increases by reason of improvements to individual apartments (IAI increases). Barriga v. DHCR, N.Y.L.J., Aug. 4, 1999, page 26, col. 1 (Sup.Ct. Queens Co.).

¶ 51. Where a landlord has made an application for an MCI increase, DHCR must serve a copy of the application upon the tenants. It is not sufficient for the agency to merely inform tenants that an application has been filed by the landlord and that the application can be examined at the DHCR office. Horowitz v. DHCR, N.Y.L.J., Nov. 3, 1999, page 34, col. 1 (Sup.Ct. Queens Co.).

¶ 52. A determination by DHCR that an alteration constitutes a Major Capital Improvement (MCI) necessarily entails the agency's expertise in evaluating factual data and is entitled to deference if not irrational or unreasonable. If the determination is rational, it must be upheld even though the court, if viewing the case in the first instance, might have reached a different conclusion. The burden is on the landlord to justify an MCI increase sought by presenting documentary support. All relevant documentation should be presented to the Rent Administrator. New data cannot be presented for the first time in a Petition for Administrative Review (PAR), unless the evidence could not reasonably have been offered at the Rent Administrator level. West Village Assocs. v. DHCR, 277 A.D.2d 111, 717 N.Y.S.2d 31 (1st Dept. 2000).

¶ 53. Horowitz v. DHCR, 277 A.D. 382, 717 N.Y.S.2d 204 (2d Dept. 2000). A tenant who seeks to challenge a landlord's application for a Major Capital Improvement rent increase must interpose a timely objection to the application. The agency cannot consider the tenant's objection where the tenant fails to show good cause for the delay.

¶ 54. DHCR can deny a landlord's application for a Major Capital Improvement (MCI) rent increase by reason of the existence of a "rent impairing violation (see Multiple Dwelling Law Sec. 302-a). This is true even if the violation would not have been deemed to be a "C" violation within the meaning of the Housing Maintenance Code (Adm. Code. Secs. 27-2004 and 27-2115). In this case, the violation consisted of peeling lead paint. Weinreb Mgmt. v. DHCR, N.Y.L.J., May 2, 2001, page 21, col. 5 (Sup.Ct. New York Co.).

¶ 55. Generally, a Major Capital Improvement (MCI) increase will not be granted if the work is performed in a piecemeal fashion and is not completed within a reasonable period of time. In order to demonstrate that the work is something other than routine repair and maintenance (which does not qualify as an MCI), it must be shown that the

work was performed as part of a unified plan or consecutively timed project. However, in one case, where re-piping work took nearly four years to complete but the delays were beyond the control of the landlord (the contractor performing the work had suffered severe financial reverses), and there was no indication of any intent to abandon the project, the Appellate Division reversed the decision below and granted the landlord's application for an MCI. Riverside Equities, LLC v DHCR, 292 A.D.2d 313, 740 N.Y.S.2d 21 (1st Dept. 2002).

¶ 56. In one case, where the landlord has failed to collect an agency-authorized Major Capital Improvement increase, the agency held that the landlord had waived the right to include the MCI increase in the tenant's base rent. Apar Realty Co. v. DHCR, 286 A.D.2d 274, 729 N.Y.S.2d 135 (1st Dept. 2001).

¶ 57. A court held that DHCR's policy of permitting Major Capital Improvement increases for pointing and waterproofing work only once every fifteen years (unless the owner obtained a waiver from DHCR) was rationally based. Equity Properties, Inc. v. DHCR, 288 A.D.2d 117, 733 N.Y.S.2d 49 (1st Dept. 2001).

¶ 58. The 20-year rule, which protects long-time apartment residents from owner occupancy evictions, applies only to rent controlled tenants, and to rent stabilized tenants outside New York City, and not to rent stabilized tenants in New York City. Brusco v. Armstrong, N.Y.L.J., Feb. 6, 2002, page 18, col. 1 (App.Term 1st Dept.).

¶ 59. The rent stabilization law protects a tenant from eviction under the owner occupancy law where the tenant or tenant's spouse is disabled. Moreover, the protection from eviction applies where the tenant's gay life partner is disabled. Mandell v. Cummins, 2001 WL 968362 (Civ.Ct. New York Co.).

¶ 60. A landlord prevailed in an owner occupancy proceeding where he showed an intent to use this brownstone building as a one-family residence for himself and his family. The owner's admission that he might ultimately use the tenant's apartment as a bedroom for a child as yet unborn, was not fatal to the owner's case. Proctor v. Barnes, 2002 WL 1291835 (App.Term 1st Dept.).

¶ 61. See Derdiarian v. Lehmann, N.Y.L.J., Aug. 15, 2001, page 18, col. 4 (Civ.Ct. New York Co.), reported under Admin. Code 26-408 (case no. 22).

¶ 62. Where a cooperative building is the subject of a mortgage foreclosure action and reverts to rent stabilization, the owner will (if requirements are met) be able to acquire an apartment under the owner occupancy rules. Crosby v. Hucko, N.Y.L.J., Sept. 20, 2001, page 19, col. 4 (App.Term 1st Dept.).

¶ 63. In one case, DHCR authorized a reduction of closet space in the subject apartment to accommodate a new plumbing system. This resulted in a permanent rent reduction of four dollars a month for each affected closet. The court held that since the de minimus reduction of closet space could not be equated with a failure to provide essential services (which would require a rent restoration order before rent increases would be allowed), the landlord was entitled to a Major Capital Improvement increase. 301 Holdings, LLC v. Matto, N.Y.L.J., Sept. 26, 2001, page 18, col. 1 (App.Term 1st Dept.).

¶ 64. Only a natural person can bring an owner occupancy proceeding. Thus, an executor of an estate, who is acting in a representative capacity, lacks standing to bring the proceeding. Even though the executor may be an ultimate beneficiary of the estate, such person will have to await probate and distribution of estate assets before he or she will be eligible to maintain an owner occupancy proceeding in an individual capacity. Estate of Marcus v. Davis, N.Y.L.J., Dec. 12, 2001, page 19, col. 4 (Civ.Ct. New York Co.).

¶ 65. In one case, a corporate shareholder commenced a holdover proceeding, seeking to acquire a tenant's apartment for personal use. Generally, only individual owners, and not corporate shareholders, can acquire apartments for personal use. Petitioner conceded that this building, which was formerly subject to the Loft Law (Multiple Dwelling Law Article 7C) was never formally converted to cooperative ownership, but claimed that the building was a de facto cooperative. Although the Attorney General accepted for filing an application for permission to file an offering plan, no

actual plan was ever filed. As a result, the court rejected petitioner's claims that there was a de facto cooperative corporation and said that petitioner did not qualify as an owner for purposes of the owner occupancy statute. Ross v. Abbott, N.Y.L.J., Dec. 19, 2002, page 23, col. 1 (Civ.Ct. New York Co.).

¶ 66. The six percent limitation on the collect ability of Major Capital Improvement (MCI) increases must be based on the rent in effect at the time of the landlord's application for the MCI increase, not on the subsequent legal regulated rents. Permanent MCI increases will be added into the legal regulated rent. Dara Realty Assocs. v. Schachter, 194 Misc.2d 29, 751 N.Y.S.2d 677 (App.Term 2d Dept.).

¶ 67. Where the landlord has applied for a Major Capital Improvement (MCI) increase, the New York State Div. of Housing and Community Renewal has discretion to decide whether or not an inspection of the apartment is necessary. Moreover, the agency can consider violations which are placed upon the premises up until the date of the decision, even those placed upon the premises after the date of application. Furthermore, in denying the application, the agency has the right to rely upon reports of the New York City Department of Housing Preservation and Development, which found "C" (immediately hazardous) violations to exist. 370 Manhattan Ave. Co. v. DHCR, 11 A.D.3d 370, 783 N.Y.S.2d 38 (1st Dept. 2004).

¶ 68. In one case, the tenant had lived in the subject building for over ten years and when it came time to renew, did not execute a renewal lease. The landlord brought a holdover summary proceeding and sought to regain possession of the premises. The tenant claimed, in his defense, that his lease contained a preferential rent (below the legal regulated rent) and that he was entitled to a renewal lease based on that preferential rent. Admin. Code § 26-514(c)(14) provides that where a lease is made at a preferential rent, the landlord can, upon renewal, raise the rent to the legal rent regulated level. There is an exception in cases where the landlord and tenant specifically agree that the preferential rent will hold for the full length of the tenancy. However, where, as here, the lease provided that the preferential rent would hold for the current term, and did not provide for the continuation of the preferential rent into the next renewal term, the landlord can lawfully demand the full legal regulated rent upon the next renewal. Les Filles Quatre v. McNeur, 9 Misc.3d 179, 798 N.Y.S.2d 899 (Sup.Ct. N.Y. Co. 2005). On the other hand, where a lease clearly and unequivocally provides for a rent concession for the full length of the tenancy, the tenant is entitled to a rent concession for the duration of the tenancy. Colonnade Mgmt, LLC v. Warner, 11 Misc.3d 52, 812 N.Y.S.2d 209 (1st Dept. 2006).

¶ 69. There are conflicting decisions as to the amount of space in a building that a landlord can acquire for his or her own use and the use of his or her family. In Pultz v. Economakis, 8 Misc.3d 1022(A), 803 N.Y.S.2d 20 (Sup.Ct. New York Co. 2005), the court issued a preliminary injunction prohibiting a landlord from taking steps to evict all of the tenants in the building, where the landlord had planned to create the equivalent of a one-family home consisting, among other rooms, of five bedrooms, six bathrooms, a living room, den, playroom, a library and a gym. On the other hand, in Malta v. Brown, 12 Misc.3d 1164(A), 819 N.Y.S.2d 210, 2006 WL 1540292 (Civ.Ct. New York Co.), the court held that there is no specific limitation on the number of tenants who can be evicted in an owner occupancy proceeding, and a case by case determination must be made as to the landlord's good faith need to acquire multiple apartments, or even an entire building, for the use of his or her own family.

¶ 70. In one case, tenants complained that DHCR approved a Major Capital Improvement without detailed evidence distinguishing rewiring work (for which the MCI was sought) and non-MCI telecommunications work done by the same contractor. The court ruled in favor of the landlord. The landlord produced their contract with the installation contractor and a separate contract between the cable telecom licensee and the contractor. The landlord consistently responded to DHCR's inquiries concerning income from the cable telecom license and what the subcontractors were being paid. The agency's action approving the MCI had a rational basis even though it did not seek documents showing individual tasks. Sanders v. DHCR, 40 A.D.3d 440, 836 N.Y.S.2d 583 (1st Dept. 2007).

¶ 71. Where a lease contained a rental less than the legal regulated rent, the owner can raise the preferential rent to the previously established legal regulated rent on lease renewal with the same tenant. This rule applies even where there are two apartments which have been combined. 764 Madison Ave. LLC v. Risse, 17 Misc.3d 330, 842 N.Y.S.2d 693

(Civ.Ct. New York Co. 2007).

¶ 72. Where a landlord and tenant agree to a preferential lease covering the tenant's entire period of occupancy (i.e. extending into subsequent leases), such an agreement is enforceable and does not violate the rent regulation laws. Romero v. DHCR, 16 Misc.3d 484, 842 N.Y.S.2d 213 (Sup.Ct. New York Co. 2007).

¶ 73. A landlord conceivably can recover a group of rent stabilized apartments as per Pultz v. Economakis, 2008 NY Slip Op. 4900, 10 N.Y.3d 542 , 2008 NY Lexis 1463 (Ct. App. NY), the defendant owners served plaintiffs with notices of "nonrenewal of lease." They indicated their intention to recover possession of all of the remaining rent-stabilized apartments pursuant to the Rent Stabilization Code 9 NYCRR 2524.2(c)(3) and 2524.4(a). Specifically, the defendants were planning to occupy these apartments for their personal use as a primary residence for the husband. These notices were accompanied by a detailed plan for converting the subject apartments to their own single family dwelling.

The plaintiffs brought suit, and sought a declaration that the defendants' plan violated the Rent Stabilization law and Code. In addition, plaintiffs sought an injunction so that the notices would be tolled and the defendants would be prevented from instituting any holdover proceedings based on the notices during the course of the action. Plaintiffs also sought attorneys' fees based on defendants' breach of the residential leases with respect to the two plaintiffs.

Plaintiffs argue that it was the intent of the legislature to preserve rent-stabilized housing for persons and families that occupy such housing (RSL Admin. Code section 26-501). Further, the legislature intended to strictly limit those situations in which an owner is permitted to remove an entire building or all its units from the stabilized housing stock. Finally, they state that their actions requires authorization from DHCR.

Although the Supreme Court held in the plaintiffs' favor, the App. Div. Reversed, holding that defendants' plan to recover rent-stabilized apartment units was governed by 9 NYCRR 2524.4(a) ("owner occupancy provision) and not 9 NYCRR 2524.5(a)(1)(I) ("market withdrawal" provision). The Court granted plaintiffs appeal to this court.

Read together, the plain language of the Rent Stabilization Law (Admin. Code 26-511(c)(9)(b) and the Rent Stabilization Code 9 NYCRR 2524.4(a)(1)(3) permit an owner to refuse renewal leases to rent-stabilized tenants and to recover possession of "one or more" stabilized dwelling units for his or her personal use and occupancy as his or her primary residence, or as the primary residence of a member of the owner's family. DHCR approval was not required. If there is more than one owner, only one of the individual owners may recover the units for his or her personal use and occupancy. Section 2524.5(a)(1)(ii) was not considered applicable, and is triggered only when there is an attempt to wirthdraw any or all housing accommodations from the rental market and where the owner requires the units for use in connection with a business that he or she owns or operates, or because the cost of removing violations is equal to or exceeds the value of the property.

The Legislature intended to make more rental housing available, but it also intended to allow owners to live in their own buildings if they choose to do so. The unambiguous language of 9 NYCRR 2524.4(a) was chosen by the Legislature to reconcile conflicting policies, and the Court gave effect to the plain meaning of the law. Consequently, the Court affirmed the App. Div. decision in favor of the defendants. However, the defendants could not recover the stabilized apartment units unless and until they established their good faith intention to recover possession of the subject apartments for the husband owner's personal use as the primary residence.

An agreement by a tenant to pay a rent higher than that permitted under the rent stabilization law, in exchange for the landlord's agreement not to invoke the non-primary residence provisions of the law against the tenant, was void from its inception and unenforceable by either party. Riverside Syndicate, Inc. v. Munroe, 10 N.Y.3d 18, 853 N.Y.S.2d 263 (2008).

¶ 74. In 370 Manhattan Ave. Co, Inc. v. Seitz 2008 NY Slip Op. 28164, 2008 NY Misc. Lexis 2510 (App. Term 1st Dept.), a rent stabilized tenant had a lease and two renewal leases at a preferential rent. The registration statements

listed both the preferential rent and the legal regulated rent. The tenant was served with the registration statements and was aware that the landlord was charging a lower rate for the apartment but reserved the right to raise the rent when the lease expired. Plaintiff signed renewal leases without objecting to the figures in the rent registration statement. Since the tenant did not challenge the rent for more than a four-year period, the tenant was bound by the legal regulated rent contained in the third renewal lease.

¶ 75. In Candida v. Salvation Army 2007 NY Slip Op. 9684, 46 AD3d 294, 847 NYS2d 81 (App. Div. 1st Dept.), the court held that two residences owned and operated by the Salvation Army were exempt from the Rent stabilization Law since the primary use of the residences was charitable. The tenants' initial occupancies commenced after defendant acquired the residences. Thus, they were exempt from the operation of the Rent Stabilization Law and defendant was entitled to refuse to renew the tenants leases (NYC Admin. Code section 26-511(c)(9)(c)(i)).

¶ 76. Admin. Code Sec. 26-511(c)(13) allows an "individual apartment improvement increase (IAII) only where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements, or new furniture or furnishings, provided in or to the tenant's housing accommodation. Where the only testimony was from the principal of an unlicensed contracting firm that supposedly performed the work, and he admitted he did not perform or even see the work being done, and he testified merely that he had "gone to the building," that testimony was insufficient to show that the work had been done. Moreover, where the landlord contended that the apartment was painted in 2006, that testimony was incredible in light of the finding of the City Department of Housing Preservation and Development that there was a lead paint hazard at the premises. Since the hazards of lead paint have been known for a long time, there is no way that disputed paint job could have been performed in 2006. A further reason for denying the IAII was that the landlord failed to produce canceled checks contemporaneous with completion of the work, or an invoice receipt marked "payment in full." Sheridan Properties, LLC v. Liefshitz 2007 NY Slip Op. 52316U, 17 Misc.3d 1137A, 851 NYS2d 74, 2007 NY Misc. Lexis 7948 (Civ. Ct. Bronx Cty.).

¶ 77. Years ago, when a landlord had been charging a tenant a preferential rent, the landlord could not raise the rent to the full legal regulated rent in lease renewals for that tenant, but would have to wait for a vacancy and new tenant before being able to collect the full legal regulated rent. The Rent Stabilization Law, Sec. 26-511(c)(14), was amended in 2003 to permit a landlord to end a preferential rent at the time of lease renewal and charge the legal regulated rent. The new rule came into play when a rent stabilized tenant sought a declaratory judgment that he was entitled to renew his lease at a preferential rent. The owner and landlord wanted to begin charging plaintiff the legal regulated rent. The court explained that the new rule applied unless otherwise agreed by the owner. In other words, the new rule did not preclude owners from entering into leases that continue preferential rents for a designated time period. Where an original lease or renewal lease contains a provision that the tenant is entitled to further leases at the preferential rent for the full term of the tenancy, the 2003 amendment does not negate such a provision. In the instant case, the landlord could have inserted into the lease a provision placing a time limit on the preferential rent, but did not do so. Where, as here, the lease provided for the preferential rent, with no time limit on that rent, the landlord could not properly insert into a renewal lease a provision calling for the charging of the full legal regulated rent. Von Rosenvinge v. Wellington Fee, LLC 2008 NY Slip Op. 50765U, 19 Misc.3d 1118A, 2008 NY Misc. Lexis 2053 (Sup. Ct. NY County).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-512

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-512 Stabilization provisions.

a. No owner of property subject to this law shall charge or collect any rent in excess of the initial legal regulated rent or adjusted initial legal regulated rent until the end of any lease or other rental agreement in effect on the local effective date until such time as a different legal regulated rent shall be authorized pursuant to guidelines adopted by a rent guidelines board.

b. The initial regulated rent for housing accommodations subject to this law on the local effective date of the emergency tenant protection act of nineteen seventy-four or which become subject to this law thereafter, pursuant to such act, shall be:

(1) For housing accommodations which were regulated pursuant to this law or the city rent and rehabilitation law prior to July first, nineteen hundred seventy-one, and which became vacant on or after such date and prior to the local effective date of the emergency tenant protection act of nineteen seventy-four, the rent reserved in the last effective lease or other rental agreement; provided that such initial rent may be adjusted on application of the tenant pursuant to subdivision b of section 26-513 of this chapter.

(2) For housing accommodations which were regulated pursuant to the city rent and rehabilitation law on the local effective date of the emergency tenant protection act of nineteen seventy-four, and thereafter become vacant, the rent agreed to by the landlord and the tenant and reserved in a lease or provided for in a rental agreement; provided that such initial rent may be adjusted on application of the tenant pursuant to subdivision b of section 26-513 of this chapter.

(3) For housing accommodations other than those described in paragraphs one and two of this subdivision, the

rent reserved in the last effective lease or other rental agreement.

(4) For any plot or parcel of land which had been regulated pursuant to the city rent and rehabilitation law prior to July first, nineteen hundred seventy-one and which,

(i) became vacant on or after July first, nineteen hundred seventy-one and prior to July first, nineteen hundred seventy-four, the rent reserved in a lease or other rental agreement in effect on June thirtieth, nineteen hundred seventy-four plus increases authorized by the rent guidelines board under this law for leases or other rental agreements commencing thereafter; provided that such initial rent may be adjusted on application of the tenant pursuant to subdivision b of section 26-513 of this chapter or,

(ii) became vacant on or after July first, nineteen hundred seventy-four, the rent agreed to by the landlord and the tenant and reserved in a lease or other rental agreement plus increases authorized by the rent guidelines board under this law for leases or other rental agreements commencing thereafter; provided that such initial rent may be adjusted on application of the tenant pursuant to subdivision b of section 26-513 of this chapter.

(iii) Where the commissioner has determined that the rent charged is in excess of the lawful rents as stated in subparagraph (i) or (ii) hereof, plus lawful increases thereafter, he or she shall provide for a cash refund or a credit, to be applied against future rent, in the amount of any rent overcharge collected by an owner and any penalties, costs, attorneys' fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules for which the owner is assessed.

c. With respect to accommodations for which the initial legal regulated rent is governed by paragraph two of subdivision b hereof, no increase of such initial legal regulated rent pursuant to annual guidelines adopted by the rent guidelines board shall become effective until the expiration of the first lease or rental agreement taking effect after the local effective date of the emergency tenant protection act of nineteen seventy-four, but in no event before one year after the commencement of such rental agreement.

d. With respect to accommodations, other than those referred to in subdivision c, for which a lease is entered into after the local effective date of the emergency tenant protection act of nineteen seventy-four, but before the effective date of the first guidelines applicable to such accommodations, the lease may provide for an adjustment of rent pursuant to such guidelines to be effective on the first day of the month next succeeding the effective date of such guidelines.

e. Notwithstanding any contrary provisions of this law, on and after July first, nineteen hundred eighty-four, the legal regulated rent authorized for a housing accommodation subject to the provisions of this law shall be the rent registered pursuant to section 26-517 of this chapter subject to any modification imposed pursuant to this law.

f. Notwithstanding any provision of this law to the contrary in the case where all tenants named in a lease have permanently vacated a housing accommodation and a family member of such tenant or tenants is entitled to and executes a renewal lease for the housing accommodation if such accommodation continues to be subject to this law after such family member vacates, on the occurrence of such vacancy the legal regulated rent shall be increased by a sum equal to the allowance then in effect for vacancy leases, including the amount allowed by paragraph (five-a) of subdivision c of section 26-511 of this law. Such increase shall be in addition to any other increases provided for in this law including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section 26-511 of this law and shall be applicable in like manner to each second subsequent succession.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. f added chap 116/1997 § 22, eff. June 19, 1997.

DERIVATION

Formerly § YY51-6.0.1 added chap 576/1974 § 11

Sub b par 4 added chap 69/1980 § 6

Sub b par 4 amended chap 805/1981 § 1

Sub b par 4 amended chap 403/1983 § 10

Sub e added chap 403/1983 § 11

CASE NOTES FROM FORMER SECTION

¶ 1. Determination of Concilation and Appeals Board fixing the "fair market" by averaging the guidelines of the Rent Guidelines Board with rents generally prevailing in the same area for substantially similar housing accommodations was not arbitrary and capricious.-Wallber Realty Co. v. Conciliation & Appeals Board of City of N.Y. 55 NY2d 739 [1981].

CASE NOTES

¶ 1. Under this section, which makes it unlawful for landlords to charge any "rent" in excess of the legal regulated rent, previous cases have held that attorneys' fees and late fees cannot be collected as additional rent. In a more recent case, the court held that surcharges for sub-metered electrical service or other utility service could not be collected by the landlord as additional rent. Related Tiffany v. Faust, N.Y.L.J., Apr. 24, 2002, page 20, col. 5 (App.Term 2nd & 11th Judic. Dists.).

¶ 2. A person who succeeds to the rights of a rent stabilized tenant is not considered a "new" tenant within the meaning of Admin. Code Sec. 26-512. Thus, the owner cannot charge him or her a "first" rent as though he or she were a vacancy tenant. Lasigniora v. Hooper, N.Y.L.J., July 25, 2001, page 23, col. 3 (Civ. Ct. Queens Co.).

¶ 3. Where a landlord withdrew the subject buildings from the Mitchell-Lama program, and they immediately became subject to rent stabilization, the immediately preceding rent for each apartment became the "initial regulated rent" under the RSL. KSLM-Columbus Apartments, Inc. v. DHCR, 2005 WL 1397033 (Court of Appeals).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-513

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-513 Application for adjustment of initial rent.

a. The tenant or owner of a housing accommodation made subject to this law by the emergency tenant protection act of nineteen seventy-four may, within sixty days of the local effective date of this section or the commencement of the first tenancy thereafter, whichever is later, file with the commissioner an application for adjustment of the initial legal regulated rent for such housing accommodation. The commissioner may adjust such initial legal regulated rent upon a finding that the presence of unique or peculiar circumstances materially affecting the initial legal regulated rent has resulted in a rent which is substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.

b. 1. The tenant of a housing accommodation that was regulated pursuant to the city rent and rehabilitation law or this law prior to July first, nineteen hundred seventy-one and that became vacant on or after January first, nineteen hundred seventy-four may file with the commissioner within ninety days after notice has been received pursuant to subdivision d of this section, an application for adjustment of the initial legal regulated rent for such housing accommodation. Such tenant need only allege that such rent is in excess of the fair market rent and shall present such facts which, to the best of his or her information and belief, support such allegation. The rent guidelines board shall promulgate as soon as practicable after the local effective date of the emergency tenant protection act of nineteen seventy-four guidelines for the determination of fair market rents for housing accommodations as to which any application may be made pursuant to this subdivision. In rendering a determination on an application filed pursuant to this subdivision b the commissioner shall be guided by such guidelines and by the rents generally prevailing in the same area for substantially similar housing accommodations. Where the commissioner has determined that the rent charged is in excess of the fair market rent he or she shall, in addition to any other penalties or remedies permitted by law, order a

refund of any excess paid since January first, nineteen hundred seventy-four or the date of the commencement of the tenancy, whichever is later. Such refund shall be made by the landlord in cash or as a credit against future rents over a period not in excess of six months.

2. The provisions of paragraph one of this subdivision shall not apply to a tenant of a housing accommodation for which the initial legal regulated rent is no greater than the maximum rent that would have been in effect under this law on December thirty-first, nineteen hundred seventy-three, or for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five as calculated pursuant to the city rent and rehabilitation law (if no such maximum rent has been calculated for a particular unit for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five, the division of housing and community renewal shall calculate such a rent), as the case may be, if such apartment had not become vacant on or after January first, nineteen hundred seventy-four, plus the amount of any adjustment which would have been authorized under this law for renewal leases or other rental agreement, whether or not such housing accommodation was subject to this law, for leases or other rental agreements commencing on or after July first, nineteen hundred seventy-four.

c. Upon receipt of any application filed pursuant to this section, the commissioner shall notify the owner or tenant, as the case may be, and provide a copy to him or her of such application. Such owner or tenant shall be afforded a reasonable opportunity to respond to the application. A hearing may be held upon the request of either party, or the commissioner may hold a hearing on his or her own motion. The commissioner shall issue a written opinion to both the tenant and the owner upon rendering his or her determination.

d. Within thirty days after the local effective date of the emergency tenant protection act of nineteen seventy-four the owner of housing accommodations as to which an application for adjustment of the initial legal regulated rent may be made pursuant to subdivision b of this section shall give notice in writing by certified mail to the tenant of each such housing accommodation on a form prescribed by the commissioner of the initial legal regulated rent for such housing accommodation, the maximum rent at the time such housing accommodation became vacant and of such tenant's right to file an application for adjustment of the initial legal regulated rent of such housing accommodation.

e. Notwithstanding any contrary provision in this law an application for an adjustment pursuant to this section must be filed within ninety days from the initial registration. This subdivision shall not extend any other time limitations imposed by this law.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Subd. d amended L.L. 12/2000 § 3, eff. Apr. 27, 2000.

Subd. d amended chap 116/1997 § 17, eff. June 19, 1997 and applying to housing accommodations

vacant on or after June 19, 1997.

Subd. d amended L.L. 13/1997 § 4, eff. Mar. 31, 1997.

DERIVATION

Formerly § YY51-6.0.2 added chap 576/1974 § 12

Amended chap 403/1983 § 12

CASE NOTES

¶ 1. Fair market rent appeal process is available to the first tenant to occupy an apartment which becomes subject to the Rent Stabilization Law following vacancy decontrol, and to the second tenant where the first tenant was never properly notified, and continues to pass from tenant to tenant until there is a tenant who is duly notified, § 26-513(b)(d). In the case where an appeal has started and tenant "waives" his rights by discontinuing the rent appeal, the appeal will be continued until determination, § 26-513(b)(1); (c). McKenzie v. Mirabal, 155 AD2d 194, 553 N.Y.S.2d 699 (1st Dept. 1990).

¶ 2. In a rent regulation proceeding, the 90-day period within which to file a fair market rent appeal begins to run when the notice of the initial regulated rent is served (see Ad Code § 26-513(b)(1)) and the only evidence that the 90-day period ever commenced was submitted for the first time in the instant proceeding which may not be considered by the court. In addition, there is no proof that the notice of the initial rent was mailed in accord with Ad Code § 26-513(d) and petitioner-landlords failure to obtain the appropriate records from the prior owner may not be excused. Ardito v. Higgins, 147 Misc. 2d 412.

¶ 3. Realizing the difficulty tenant faces in obtaining comparable rent data, NYS Div. of Hous. & Comm. Ren. interpreted 9 NYCRR 2522.3(b) and §26-513(b)(1) as permissive, not mandatory, giving tenant option to provide supplemental facts if he so chose regarding initial regulated rent exceeded the Fair Market Rent. Chinitz v. NYS Div. of Hous. & Comm. Ren., 191 AD2d 222, 594 NYS2d 246, 594 N.Y.S.2d 246 (1st Dept. 1993).

¶ 4. Where the landlord fails to serve the tenant with the required initial legal regulated rent notice by the method prescribed in the statute, the 90 day period within which the tenant must bring a fair market rent appeal never begins to run. Estate of Goldman v. New York State Div. of Housing and Community Renewal, 228 A.D.2d 192, 643 N.Y.S.2d 99 (App.Div. 1st Dept. 1996).

¶ 5. Where a landlord fails to provide required documentation for comparable rents, the administrative agency can use the special guidelines for determining the lawful rent, and is not required to give the landlord a hearing on the issue. Matter of Jane Mansions v. Higgins, 189 A.D.2d 713, 593 N.Y.S.2d 5 (1st Dept. 1993).

¶ 6. Where the landlord serves the notice of fair market rent to the tenant by ordinary mail rather than certified mail as required by the statute, the 90 day period within which the tenant must take a fair market appeal never begins to run. Alcoma Corp. v. New York State Div. of Housing and Community Renewal, 170 A.D.2d 324, 566 N.Y.S.2d 254 (1st Dept. 1991).

¶ 7. In opposing the tenant's fair market rent appeal, it is the landlord's burden to come forward with evidence of rents for housing accomodations similar to the one in question. The state agency is not required to do the landlord's work of assembling the necessary documents. Powers v. New York State Division of Housing and Community Renewal, 229 A.D.2d 349, 645 N.Y.S.2d 794 (App.Div. 1st Dept. 1996).

¶ 8. An apartment became decontrolled by reason of a vacancy and the landlord never registered the premises as rent stabilized, but the landlord charged the new tenant a substantially higher rent than the previous rent controlled figure. The court held that the tenant's challenge to this rent was in the nature of a rent overchage claim (over which the courts and the administrative agency have concurrent jurisdiction) rather than a fair market rent proceeding (over which only the administrative agency would have had jurisdiction). The court also held that since there was no initial registration, the legal rent was the last rent under rent control. Smitten v. 56 MacDougal Street Co., 167 A.D.2d 205, 561 N.Y.S.2d 585 (1st Dept. 1990).

¶ 9. The New York State Division of Housing and Community Renewal properly rejected an apartment as being a comparable apartment in the context of a Fair Market Rent Appeal, where it was occupied by its owner for more than a year after 1953. Thus, the current tenant is not the first decontrolled tenant to take occupancy and thus would not have the right to take a fair market rent appeal. Fichera v. New York State Division of Housing and Community Renewal, 233 A.D.2d 107, 649 NYS2d 430 (App. Div. 1st Dept. 1996).

¶ 10. In determining a fair market rent appeal, it is within the agency's discretion to decide whether to accept or reject rental data as truly comparable to the subject apartment. The court's function is limited to deciding whether the agency's ruling had a rational basis. Here, agency reasonably rejected the landlord's submission of a list a three apartments with a statement of the rent charged, where there was no proof that these were legally regulated rents. Chios Realty v. New York State Division of Housing and Community Renewal, N.Y.L.J., June 26, 1996, page 30, col. 3 (Sup.Ct. Queens Co.).

¶ 11. Where a landlord failed to send the tenant a proper notice of fair market rent, the right to take a fair market rent appeal will pass from tenant to tenant. Weinreb Management v. New York State Division of Housing and Community Renewal, 231 A.D.2d 473, 647 N.Y.S.2d 219 (App.Div. 1st Dept. 1996).

¶ 12. The agency should use the law related to comparable rents as the law existed at the time that the fair market rent appeal was filed. Jemrock Co. v. New York State Division of Housing and Community Renewal, N.Y.L.J., Oct. 9, 1996, page 21, col. 5 (Sup.Ct. New York Co.).

¶ 13. Where a landlord fails to submit appropriate comparable rents after being given an opportunity to do so, the agency can decide a fair market rent appeal solely on the basis of the special rent guidlines promulgated under the rent stabilization law. Chios Realty Co. v. New York State Division of Housing and Community Renewal, 269 A.D.2d 296, 657 N.Y.S.2d 757 (App.Div. 2d Dept. 1997).

¶ 14. The general rule is that the tenant must present all its evidence and arguments while the case is before the District Rent Administrator (DRA). However, in one case, it was held that DHCR can accept evidence at the Petition for Administrative Review level that could not reasonably have been offered or included in the DRA process. Since DHCR failed to follow its customary procedures in affording the landlord the opportunity to complete its comparability data prior to the DRA decision, the evidence properly could be accepted during the PAR proceeding. Thus, LL prevailed. Stern v. DHCR, 250 A.D.2d 403, 673 N.Y.S.2d 7 (1st Dept. 1998).

¶ 15. A tenant who prevails in a Fair Market Rent Appeal is entitled to an abatement of rent in the amount of the award. If there is still a balance owed after six months, the tenant can obtain the balance of the award as a refund from the landlord. This differs from the procedures used in rent overcharge cases, where the tenant actually enters a judgment against the landlord in the amount of the overcharge. If a landlord brings a summary non-payment proceeding against a tenant, and the amount owed by the landlord on the Fair Market Rent award exceeds the amount of unpaid rent, the summary proceeding will be dismissed. Kingsbridge Partners v. Atkinson, N.Y.L.J., Dec. 24, 1998, page 30, col. 1 (App.Term 1st Dept.).

¶ 16. Where a landlord provides proof of a certified mailing to the tenant of a Notice of Fair Market Rent, such proof is sufficient to raise a presumption of receipt, and the tenant's assertion that she did not recall receiving the notice was insufficient to rebut the presumption. Pezzano v. Holland, 249 A.D.2d 17, 671 N.Y.S.2d 225 (1st Dept. 1998).

¶ 17. In Fair Market Rent Appeal cases, unlike rent overcharge cases, the statute does not provide awards of interest. However, a tenant in a Fair Market Rent Appeal case may have a contractual right to interest. The rights and obligations of the rent stabilization law are read into a lease as an implied covenant, so that the landlord's breach of the lease entitles the tenant to pre-judgment interest. Thus, a tenant who asserted a counterclaim for rent overcharges, in response to a summary non-payment proceeding brought by the landlord, was entitled to pre-judgment interest under CPLR 5001. 200 West 15th Street v. Nunez, N.Y.L.J., June 21, 2000, page 30, col. 5 (Civ.Ct. New York Co.).

¶ 18. The agency had a rational basis for rejecting comparability data submitted by the landlords, where the alleged comparable apartments were substantially larger than the subject apartment. IG Second Generation Partners LP v. DHCR, N.Y.L.J., Nov. 10, 1999, page 27, col. 5 (Sup.Ct. New York Co.).

¶ 19. In an action by a tenant to enforce a fair market rent award, the court held that a managing agent, which is an agent for a disclosed principal (i.e. the owner of the building) is not personally liable for the award. Paganuzzi v.

Primrose Mgmt. Co., 268 A.D.2d 213, 701 N.Y.S.2d 350 (2d Dept. 2000).

¶ 20. Under the Rent Regulation Reform Act of 1997, if the rent is not challenged within four years after the filing of the registration statement, it cannot thereafter be challenged in a fair market rent proceeding. The law applies to proceedings which were pending at the time of the enactment of the law, even though the case had been subject to long administrative delays, which such delays were not willful. Goldman v. DHCR, 706 N.Y.S.2d 381 ((App.Div. 1st Dept. 2000). See also Negron v. Goldman, N.Y.L.J., May 4, 1999, page 26, col. 2 (App.Term 1st Dept.).

¶ 21. A tenant can bring a plenary action to enforce a Fair Market Rent (FMRA) award. Unlike the law governing rent overcharges, there are no statutory time limitations for enforcement of FMRA orders. Math v. Estate of Goldman, 707 N.Y.S.2d 425 (App.Div. 1st Dept. 2000).

¶ 22. In one case, the court held that the four-year lookback period applies not only to rent overcharge cases but also to Fair Market Rent Appeal cases. The court also held that where a formerly rent controlled apartment became decontrolled due to the tenant's non-primary residence, the landlord could charge the first tenant any level of rent that the market would bear, and the second rent stabilized tenant would not be entitled to maintain a Fair Market Rent Appeal. Muller v. DHCR, 263 A.D.2d 296, 703 N.Y.S.2d 80 (1st Dept. 2000).

¶ 23. In a hearing to determine the timeliness of a proceeding to challenge the fair market rent, DHCR cannot, on its own motion, rely upon evidence about which the parties had no notice or a chance to be heard. Spedicato v. DHCR, 269 A.D.2d 233, 703 N.Y.S.2d 118 (1st Dept. 2000).

¶ 24. Where a tenant was never served with an initial legal regulated rent, DHCR's four year review period runs from the filing of the complaint, not from a later time that the proceeding was converted by DHCR from a rent overcharge complaint to a fair market rent proceeding. One Three Eight Seven Assocs. v. DHCR, 269 A.D.2d 296, 703 N.Y.S.2d 44 (App.Div. 1st Dept. 2000).

¶ 25. Tzfil Realty Corp. v. DHCR, N.Y.L.J., Jan. 3, 2001, at 25, col. 1 (Sup.Ct. Queens Co.). Fair Market Rent Appeals (FMRA's) are essentially rent overcharge complaints that challenge the first rent for a decontrolled apartment as exceeding the lawful stabilized increases over the last controlled rent. Rent overcharge complaints have separate statutory sections and time limits within the rent stabilization law, and are treated by DHCR as separate and distinct proceedings. However, DHCR, where appropriate, may convert a rent overcharge complaint into an FMRA, and the Rent Regulation Reform Act of 1997 (RRRA) does not prohibit such conversion. Even though the tenant used the form for rent overcharge complaints, the agency properly recognized that the tenant in effect was challenging the first rent stabilized rent and converted the proceeding into the appropriate form. The fact that the conversion occurred about 18 months after the filing of the complaint does not constitute a basis for vacating DHCR's action, absent a showing that the delays were prejudicial, deliberate or negligent or violated some statutory provision.

¶ 26. Busbee v. Ken-Rob Co., 280 A.D.2d 406; also leave to appeal denied, 97 N.Y.2d 605, 737 N.Y.S.2d 52, 720 N.Y.S.2d 785 (1st Dept. 2001). A tenant is entitled to recover pre-judgment interest on the refund of the excess rent that was awarded to her in a Fair Market Rent Appeal, computed from the midpoint of the period during which she paid such excess rent to the date the landlord paid her the principal amount of the refund.

¶ 27. Although DHCR is required to award treble damages in the case of a willful rent overcharge, the Fair Market Rent Appeal statute makes no provision for treble damages. Mendelsohn v. Empire Associates Realty Co. Ass'n., 278 A.D.2d 40, 717 N.Y.S.2d 155 (1st Dept. 2000).

¶ 28. The Second Department has held that under the Rent Regulation Act of 1997 (RRRA) of 1997, the four-year limit on rent challenges applies not only to rent overcharge proceedings but also to Fair Market Rent Appeals. The court thus agreed with the First Department ruling in Muller v. DHCR, 263 A.D.2d 296, 703 N.Y.S.2d 80, and overruled its own prior decision of Janoff, 609 N.Y.S.2d 673, which pre-dated the RRRA. The legislative intent was to limit the landlord's record-keeping requirements to a four-year period. This results in consistent treatment of the initial rent

registration for purposes of both Fair Market Rent Appeals and rent overcharge claims, the court said. Thus, where the landlord can establish that an unchallenged annual rent statement was issued at least four years before the filing of the complaint, the rent recited in that statement will be the legal regulated rent. With respect to complaints filed within 90 days of the initial registration statement, the legal regulated rent is the rent charged four years prior to the date of the initial registration plus any lawful increases and adjustments. Since a Fair Market Rent Appeal is a request for adjustment of the initial rent, and the legislature did not indicate any intent to eliminate Fair Market Rent Appeals, then the RRRA does not limit the tenant's right to timely challenge the initial registered rent on the ground that it exceeds the Fair Market Rent. Perry v. DHCR, 722 N.Y.S.2d 556 (2d Dept. 2001).

¶ 29. The Second Department has held that under the Rent Regulation Act of 1997 (RRRA) of 1997, the four-year limit on rent challenges applies not only to rent overcharge proceedings but also to Fair Market Rent Appeals. The court thus agreed with the First Department ruling in Muller v. DHCR, 263 A.D.2d 296, 703 N.Y.S.2d 80 (1st Dept. 2000), and overruled its own prior decision of Janoff, 203 A.D.2d 291, 609 N.Y.S.2d 673, which pre-dated the RRRA. The legislative intent was to limit the landlord's record-keeping requirements to a four-year period. This results in consistent treatment of the initial rent registration for purposes of both Fair Market Rent Appeals and rent overcharge claims, the court said. Thus, where the landlord can establish that an unchallenged annual rent statement was issued at least four years before the filing of the complaint, the rent recited in that statement will be the legal regulated rent. With respect to complaints filed within 90 days of the initial registration statement, the legal regulated rent is the rent charged four years prior to the date of the initial registration plus any lawful increases and adjustments. Since a Fair Market Rent Appeal is a request for adjustment of the initial rent, and the legislature did not indicate any intent to eliminate Fair Market Rent Appeals, then the RRRA does not limit the tenant's right to timely challenge the initial registered rent on the ground that it exceeds the Fair Market Rent. Perry v. DHCR, 722 N.Y.S.2d 556 (2d Dept. 2001).

¶ 30. A tenant is entitled to bring a plenary action to enforce a Fair Market Rent Adjustment order where the landlord has not refunded the excess rent within six months. Thus, where a landlord brings a summary non-payment proceeding against the tenant, the Civil Court has subject matter jurisdiction to entertain the tenant's counterclaim for a refund of rent and, if appropriate, enter a money judgment in favor of tenant for the sum in question. Goldman v. Topping, N.Y.L.J., Apr. 6, 2001, page 18, col. 1 (App.Term 1st Dept.).

¶ 31. Where a notice of fair market rent was served upon the tenant but is defective in form, the 90-day period for the tenant to bring a Fair Market Rent Appeal does not begin to run. I.G. Second Generation Partners L.P. v. DHCR, N.Y.L.J., June 11, 2001, page 24, col. 1 (App.Div. 1st Dept.).

¶ 32. In calculating the Fair Market Rent for the subject apartment, DHCR added in a guidelines increase based upon a claimed increase in the Maximum Base Rent (MBR). The court, however, held that was improper to add in an MBR increase without first determining whether the landlord would have been entitled to such an increase. The court noted that the increase in the MBR would not have been automatic. To obtain an order of eligibility from DHCR, the landlord would have had to, among other things, submit a written certification to DHCR, six months before the effective date of the increase, that it has cleared all rent-impairing violations, as well as 80 percent of all other violations. Schaper & Falck v. DHCR, N.Y.L.J., June 5, 2001, page 18, col. 2 (Sup.Ct. New York Co.).

¶ 33. The second tenant of a rent stabilized apartment was permitted to maintain a Fair Market Rent Appeal, where the notice of fair market rent served on the first tenant was defective in not disclosing the maximum rent (rent controlled rent) for the apartment. This was the case even though the first rent stabilized tenant admitted that he was not misled by the defective notice and knowingly elected to forego a Fair Market Rent Appeal. Weinreb v. DHCR, 741 N.Y.S.2d 38 (App.Div. 1st Dept. 2002).

¶ 34. In one case, a rent overcharge complaint was converted to a Fair Market Rent Appeal. The court then held that in adjudicating the fair market rent appeal, DHCR properly limited examination of the subject apartment's rental history to the four year period prior to the tenant's challenge to the rent charged for the apartment. 1781 Riverside, LLC v. DHCR, 287 A.D.2d 255, 730 N.Y.S.2d 506 (1st Dept. 2001).

¶ 35. A tenant may enforce the administrative agency's Fair Market Rent Appeal award in a plenary action, and the reduce the award to judgment. In such a case, the tenant will obtain pre-judgment interest, computed from the date of the agency order. Moreover, the tenant can also obtain judgment for any excess rents paid after the period covered by the agency order; in other words, there is no need to commence a second Fair Market Rent Appeal. Gersten v. 111-50 Realty Co., N.Y.L.J., July 11, 2001, page 25, col. 5 (Civ.Ct. Queens Co.).

¶ 36. In one case, the tenant filled out a form entitled "Tenant's Objection to Initial Rent/Services Reduction," complaining about increases taken by the landlord for individual apartment improvements and major capital improvements. However, the tenant left blank the box on the form which covered Fair Market Rent Appeals. More than five years later, DHCR chose to treat the case as a Fair Market Rent Appeal and demanded that the owner produce records of comparable rents. When the owner could not produce those records, the agency decided the Fair Market Appeal against the owner. The court, however, held that since the tenant never properly notified the owner that a Fair Market Rent Appeal was being brought, and the owner had no reason to retain its records regarding comparable apartments, it was arbitrary and capricious for the agency to demand production of those records long after the tenant's submission. Thus, from the tenant's point of view, it is vitally important to make it clear to the landlord that a Fair Market Rent Appeal is being brought. 1 BK Street Corp. v. DHCR, N.Y.L.J., Nov. 7, 2001, page 18, col. 2 (Sup.Ct. New York Co.).

¶ 37. Absent a showing of good cause, a landlord cannot submit comparability data for the first time at the PAR (Petition for Administrative Review) level. Gilman v. DHCR, 99 N.Y.2d 144, 753 N.Y.S.2d 1 (2002).

¶ 38. In determining which comparable rents to use for the purposes of setting the fair market rent for the subject apartment, it was rational for DHCR to reject the proffered rental history of apartments in a different line from the subject apartment, where the apartments in the different line contained three rooms, as opposed to two rooms in the subject apartment. Moreover, the court held that DHCR did not deny the landlord due process by not giving notice that it would be relying on its own records and would not be making any inspections. Furthermore, even if the subject apartment were three rooms, the landlord failed to show that its other characteristics, including square footage, were comparable to that of the three room apartments in different lines. Finally, it was proper for DHCR to reject a report of the landlord's appraiser, which listed as comparables apartments that were not in the same area as the subject apartment. Goldman v. NYS DHCR 6 A.D.3d 197, 774 N.Y.S.2d 151 (1st Dept. 2004).

¶ 39. Where a landlord never served a notice of fair market rent on a tenant, DHCR has the discretion to treat the case as a Fair Market Rent Appeal rather than a rent overcharge claim. The court rejected the tenant's argument that this the determination deprived him of the "benefit" of treble damages. The law was not intended to generate "benefits" of inequitable windfalls for tenants in the form of unauthorized treble damages or onerous rent freezes during protracted periods of administrative processing, the court said. Verbalis v. DHCR, 1 A.D.3d 101, 769 N.Y.S.2d 474 (1st Dept. 2003).

¶ 40. Where a landlord withdrew the subject buildings from the Mitchell-Lama (private Housing Finance Law or PHFL) program, and they became subject to rent stabilization, the landlord made an application to DHCR for an adjustment of rent based upon "unique and peculiar" circumstances which allegedly resulted in rents substantially different from rents generally prevailing in the same area for substantially similar housing accommodations. The basis of the application was that the rents in the buildings had been governed by the PHFL for 29 years and were not economically viable without the requested adjustment. The landlord argued that the buildings were not subject to the stabilization under the 1969 Rent Stabilization Law (RSL of 1969) but instead became subject to stabilization under the Emergency Tenant Protection Act of 1974 (ETPA). If the landlord prevailed, it would be able to make an application under the "unique and peculiar" provision of §26-513(a). On the other hand, DHCR and an intervenor tenants' association argued that the building became subject to rent stabilization under the RSL of 1969, and that the landlord's appropriate remedy is an application for an adjustment based on the hardship standard, a tougher one to meet. KSLM-Columbus Apartments, Inc. v. DHCR, 2005 WL 1397033 (Court of Appeals).

¶ 41. It may take years before a tenant's fair market rent appeal is finally decided. In one case, the agency determined that the rent charged by the landlord was in fact a fair market rent. However, by the time of the determination, rent arrears of $19,000 (the difference between the rent paid by the tenant and the fair market rent) had accumulated. The agency then took the position that hardship would result if the tenant were required to pay the arrears, and sought to waive the arrears. The court, however, held that the agency did not have the power to waive the arrears. Although the agency had discretion to use equitable principles in setting the amount of fair market rent, it could not erase the rent arrears. On the other hand, to ease the impact on the tenant, it could direct that the arrears be paid back over a period of time rather than all at once. IG Second Generation Partners LP v. DHCR, 7 Misc.3d 229, 789 N.Y.S.2d 873 (Sup.Ct. New York Co. 2005).

¶ 42. In one case, where the agency determined that the landlord had not served an initial registration statement, it found that the tenant's fair market rent appeal was timely. In upholding the action, the court found that the determination was based on more than the agency's own denial of receipt, and credited the tenant's testimony on the issue. The court held that the agency had wide discretion to determine issues of credibility, and that the courts were not going to review credibility determinations. 780 P.P. Associates v. DHCR, 11 A.D.3d 392, 783 N.Y.S.2d 559 (1st Dept. 2004).

¶ 43. Successor landlords are not generally liable for excess rent collected by predecessor landlords, as determinated in a Fair Market Rent Appeal order, unless they had an opportunity to participate in the FMRA, in which event they are subject to joint and several liability for the excess rent collected by their predecessors. Sciarra v. 531 East 83rd St. Owners Corp., 8 A.D.3d 159, 779 N.Y.S.2d 66 (1st Dept. 2004).

¶ 44. A plenary action to enforce an FMRA order is governed by the six-year statute of limitations period in CPLR 213(1). Sciarra v. 531 East 83rd St. Owners Corp., 8 A.D.3d 159, 779 N.Y.S.2d 66 (1st Dept. 2004).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-514

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-514 Maintenance of services.

In order to collect a rent adjustment authorized pursuant to the provisions of subdivision d of section 26-510 of this chapter an owner must file with the state division of housing and community renewal, on a form which the commissioner shall prescribe, a written certification that he or she is maintaining and will continue to maintain all services furnished on the date upon which the emergency tenant protection act of nineteen seventy-four becomes a law or required to be furnished by any state law or local law, ordinance or regulation applicable to the premises. In addition to any other remedy afforded by law, any tenant may apply to the state division of housing and community renewal, for a reduction in the rent to the level in effect prior to its most recent adjustment and for an order requiring services to be maintained as provided in this section, and the commissioner shall so reduce the rent if it is found that the owner has failed to maintain such services. The owner shall also be barred from applying for or collecting any further rent increases. The restoration of such services shall result in the prospective elimination of such sanctions. The owner shall be supplied with a copy of the application and shall be permitted to file an answer thereto. A hearing may be held upon the request of either party, or the commissioner may hold a hearing upon his or her own motion. The commissioner may consolidate the proceedings for two or more petitions applicable to the same building or group of buildings or development. If the commissioner finds that the owner has knowingly filed a false certification, it shall, in addition to abating the rent, assess the owner with the reasonable costs of the proceeding, including reasonable attorneys' fees, and impose a penalty not in excess of two hundred fifty dollars for each false certification.

The amount of the reduction in rent ordered by the state division of housing and community renewal under this subdivision shall be reduced by any credit, abatement or offset in rent which the tenant has received pursuant to section two hundred thirty-five-b of the real property law, that relates to one or more conditions covered by such order.

HISTORICAL NOTE

Section amended chap 116/1997 § 42, eff. June 19, 1997 and applies to pending and subsequent actions and proceedings.

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-6.0.3 added chap 576/1974 § 12

Amended chap 403/1983 § 13

CASE NOTES FROM FORMER SECTION

¶ 1. Apt. had been rented unfurnished, prior to the base rent date, at the same rate as established for the apt. as furnished on July 1, 1974, and there was thus no requirement for a rollback of rent when the apt. was subsequently rented as unfurnished. There are no provisions for establishing the value of furnishings in an apt. for such purposes.-Paul Chessin v. N.Y.C. Conciliation and Appeals Bd., 116 Misc. 2d 1003 [1982]; reversed 100 AD2d 297 [1984].

CASE NOTES

¶ 1. Order to reduce rent based upon decrease in services following complaint of no live-in superintendant, inadequate janitorial service, garbage accumulation. Administrative agency responsible to reduce rent changed from Conciliation and Appeals board (CAB) to State Division of Housing and Community Renewal per NYC Ad Cd § 26-514 [YY51-6.0.3] as amended Ch 403/1983. Such transfer of responsibility does not affect statutory authority to reduce stabilized rent. Matter of E. 52nd St. Assocs. v. State Div. of Hous. & Comm. Renewal, 131 AD2d 348 [1987].

¶ 2. Owner of apartment complex failed to maintain a new security system which included removal of preexisting outer door locks on each building. DHRC erred in failing to order a rent reduction because of a diminuation of "require service", § 26-514. Hyde Park Gardens v. DHCR, Off. of Rent Admin., 140 AD2d 351 affirmed 73 NY2d 998 [1989].

¶ 3. Tenant may not consent to rent restoration nor may DHCR order rent restoration "until the underlying defect is cured", in this case master bedroom ceiling was repaired in an unworkmanlike manner displaying blisters and water stains. Administrative Code § 26-514 provides tenant may apply for reduction to prior level rent and DHRC shall so reduce rent if owner has failed to maintain service. DHRC has no discretion and agency's denial of partial restoration of rent is correct. ANF Co. v. DHCR, 176 AD2d 518, 574 N.Y.S.2d 709 [1991].

¶ 4. DHRC ordered rent reduction in an amount of all rent increases until a date when services were restored and ordered refund of major capital improvement rent increases for all tenants for same period. Rent reduction is not denial of due process. In addition to financial incentive for landlords to maintain services, Administrative Code §26-514 provides remedy for tenants who have paid rent increases during periods of decreased services. While petitioners were free to use judicial process, tenants should not suffer because petitioners did not restore services until all appeals were exhausted. Mortgage holders-Intervenor's cross claim is not permitted in special proceedings absent leave of court. Hyde Park Assocs. v. Higgins, 191 AD2d 440, 594 N.Y.S.2d 57 (2nd Dept. 1993).

¶ 5. Nasaw v. Jemrock Realty Co., Inc. 639 N.Y.S.2d 37 (App.Div. 1st Dept. 1996). Although the New York State Division of Housing and Community Renewal does not have exclusive jurisdiction with respect to the maintenance of service, court action in a landlord-tenant dispute should be stayed until a final determination is made by the agency, which has special competence to deal with the issues involved.

¶ 6. Where the state agency had a rational basis for its determination reducing the rent by reason of the landlord's failure to maintain required services, the finding will not be disturbed by the court. Newport Management Co. v. New York State Division of Housing and Community Renewal, 540 N.Y.S.2d 989 (2nd Dept. 1989).

¶ 7. If a services complaint is sustained, the agency should reduce the rent to the level which was in effect prior to the most recent guidelines increase. However, the landlord can still get a vacancy allowance and rent increases attributable to improvements made to the vacant apartment. Graham Court Owners v. Allen, N.Y.L.J., Mar. 19, 1996, page 25, col. 2 (App.Term 1st Dept.).

¶ 8. It is for the administrative agency to determine what constitutes a required service and whether such services are being properly maintained. The court affirmed the agency's rent reduction here. The agency reasonably relied on a report of its inspector indicating that the water pressure was too low. Melohn v. New York State Division of Housing and Community Renewal, 234 A.D.2d 23, 650 N.Y.S.2d 166 (App.Div. 1st Dept. 1996).

¶ 9. Where a landlord is ordered to reinstitute services at its building and fails to do so, but fails to do so, the agency can impose civil penalties. It is not necessary to establish that the violation was willful. Matter of David Frankel Realty Co., Inc. v. New York State Division of Housing and Community Renewal, 176 A.D.2d 617, 575 N.Y.S.2d 59 (1st Dept. 1991).

¶ 10. An adverse change in storage facilities available to tenants can constitute an impermissible reduction in services within the meaning of the statute. Originally, the tenants had each been provided with individually locked storage bins in the basement. This was replaced with a common storage area (to which the building superintendent provided access), which provided less security. Matter of Waterside Management v. New York State Division of Housing and Community Renewal, N.Y.L.J., July 29, 1998, page 24, col. 6 (Sup.Ct. Queens Co.).

¶ 11. Where an impartial DHCR inspector found that the tenant's refrigerator had an abnormal freezer and refrigerator temperature, and there were improperly installed gaskets, this confirmed the tenant's complaint of a malfunctioning refrigerator and justified a rent reduction. Simkowitz v. DHCR, 251 A.D.2d 5, 673 N.Y.S.2d 647 (App.Div. 1st Dept. 1998).

¶ 12. In one case, an agency inter-office memorandum stated that certain conditions would be considered "de minimus" in nature and not rise to the level of decreases in services. One of the listed conditions was the removal of storage space, unless a specific lease rider is provided to tenants allowing storage space or unless formal storage boxes or bins were provided within three years of the filing of the complaint. The court held, in effect, that when adjudicating tenant complaints of reduced services, DHCR must consistently apply its own regulations. Thus, where part of the tenants' complaints related to reduction in storage space, the agency had to take into account the owner's claims that it had never authorized the tenants to use that storage space, and the fact that the registration statement had not listed storage space as one of the available services. Since the agency's decision did not address the impact of this inter-office memorandum, the court remanded the matter to the agency for further consideration. Hakim v. DHCR, 273 A.D.2d 3, 708 N.Y.S.2d 112, leave to appeal dismissed, 95 N.Y.2d 887, 715 N.Y.S.2d 378 (2000).

¶ 13. In one case, a court upheld an agency determination that a garage space was a required service, even though the majority of spaces in the garage were used by non-residents of the building and the garage was constructed after the tenant took occupancy. The important factors in favor of the agency determination were that the building and garage were under common ownership, that a portion of the garage was in the building, and that tenants were able to obtain access to the garage directly from the building. Lyndonville Properties v. DHCR, N.Y.L.J., Feb. 23, 2000, page 29, col. 2 (Sup.Ct. New York Co.).

¶ 14. A persistent failure of the owner to deal with a leakage problem of long standing (more than ten years in this case) cannot be considered de minimis, and the landlord's application for an order restoring rents was denied. Cadillac Leasing, L.P. v DHCR, N.Y.L.J., June 7, 2000, page 32, col. 1 (Sup.Ct. Queens Co.).

¶ 15. Normally, where the premises have been rent stabilized for a period of time, and DHCR is reducing the rent by reason of the landlord's failure to maintain required services, the rent is reduced by one guidelines increase. However, what happens if the tenant's lease is the first stabilized lease, and there has not been any previous guidelines increase. The Appellate Term, Second Department, held that in such a case, the rent is to be reduced to the level of the last rent controlled rent. Lorcorp, Inc. v. Burke, 185 Misc.2d 720, 713 N.Y.S.2d 891 (App.Term 2d Dept. 2000). Thus, the Second Department disagreed with a prior decision of the Appellate Term, First Department in Graham Court Owners Corp. v. Allen, N.Y.L.J., Mar. 19, 1996, page 25, col. 2, in which the court did not roll the rent back to the rent controlled level but merely reduced the rent by one guidelines increase.

¶ 16. The court upheld a DHCR rent reduction order imposed after the Department of Buildings shut down the elevator after bricks and plaster were falling into it. 780 P.P. Assocs. v. DHCR, N.Y.L.J., Feb. 4, 2002, page 19, col. 2 (App.Div. 1st Dept.).

¶ 17. The determination of the rent agency to reduce rent by reason of the owner's failure to supply heat for one and a half months in the winter was upheld by the court as having a rational basis. An inspection by the New York City Dept. of Housing Preservation and Development (HPD) had revealed violations relating to heat, and the violation had not been remedied until after the rent reduction order had been issued and after the agency-imposed deadline for the owner's response to the tenant's complaint had passed. In Re 301 West 11th Street Owners Corp. v. New York State Div. of Housing and Community Renewal, 7 A.D.3d 282, 776 N.Y.S.2d 55 (1st Dept. 2004).

¶ 18. Where a tenant had been permitted to use a laundry and a backyard area for the first six years of the tenancy, and the landlord then eliminated such uses, the landlord was deemed to have reduced services. Thus, DHCR acted reasonably in granting the tenant a reduction in rent. Llorente v. DHCR, 16 A.D.3d 105, 792 N.Y.S.2d 20 (1st Dept. 2005).

¶ 19. In one case, the a tenant contended that he was entitled to use the backyard because he had already used it for an extended period of time without a written lease prohibiting this action. However, as the court viewed this situation, the relevant issue was whether access to the backyard was a required service within the rent stabilization law's coverage. The tenant admitted that his only access to the yard was through a window. According to the court, this belied the tenant's inference that this was a service provided by the landlord. Moreover, the landlord and superintendent testified that the tenant was repeatedly told not to use the backyard. The tenant contended that he should have been provided a lease permitting use of the backyard; the court said that if that was the claim, the tenant should have brought a separate proceeding seeking a lease. Furthermore, the court said that even if the tenant had a lease for the premises, the result would be the same unless the lease expressly provided for or excluded use of the yard. Thus, the court held that the agency had a rational basis for determining that the backyard was not a required service. Meirowitz v. NYS Div. of Housing and Community Renewal, 28 A.D.3d 350, 814 N.Y.S.2d 56 (1st Dept. 2006), leave to appeal denied, 7 N.Y.3d 718, 2006 WL 3716795 (2006).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-515

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-515 Recovery of possession.

a. An owner seeking to recover possession pursuant to subparagraph (c) of paragraph nine of subdivision c of section 26-511 of this chapter shall notify the tenant in occupancy not more than one hundred fifty and not less than one hundred twenty days prior to the end of the tenant's lease term, by mail, of such owner's intention not to renew such lease in order to recover the dwelling unit for its charitable or educational purposes. The owner may give such notice within one hundred twenty days of the expiration of the tenant's lease term, provided it may not commence a summary proceeding to recover the dwelling unit until the expiration of one hundred twenty days from the giving of such notice and, provided, further, that the tenant may remain in occupancy until the commencement of such proceeding at the same rent and upon the same terms and conditions as were provided in his or her expired lease. The notice of intention not to renew the tenant's lease shall be accompanied by a notice on a form prescribed by the division of housing and community renewal setting forth the penalties to which an owner may be subject for his or her failure to utilize the tenant's dwelling unit for the charitable or educational purpose for which recovery of the dwelling unit is sought.

b. If any owner who recovers a dwelling unit pursuant to such subparagraph (c), or any successor in interest, utilizes such unit for purposes other than those permitted under such subparagraph, then such owner or successor shall, unless for good cause shown, be liable to the removed tenant for three times the damages sustained on account of such removal plus reasonable attorney's fees and costs as determined by the court, provided that such tenant commences such action within three years from the date of recovery of the unit. The damages sustained by such tenant shall be the difference between the rent paid by such tenant for the recovered dwelling unit, and the rental value of a comparable rent regulated dwelling unit on the open market. In addition to any other damage, the reasonable cost of removal of the tenant's property shall be a lawful measure of damages.

c. Where a dwelling unit has been recovered pursuant to such subparagraph (c) and within four years of such recovery is rented to a person or entity for purposes other than those permitted pursuant to such subparagraph (c), unless for good cause shown, the rent charged by such owner or any successor in interest for four years following such recovery shall not exceed the last regulated rent payable prior to such recovery.

d. If the owner is found by the commissioner, to have recovered possession of a dwelling unit pursuant to such subparagraph (c) and within four years of such recovery such owner or any successor in interest shall have utilized such unit for purposes other than those permitted pursuant to such subparagraph (c), unless for good cause shown, the commissioner shall impose upon such owner or successor in interest, by administrative order after hearing, a civil penalty for any such violation. Such penalty shall be in an amount of up to one thousand dollars for each offense. Such order shall be deemed a final determination for the purposes of judicial review. Such penalty may, upon the expiration of the period for seeking review pursuant to article seventy-eight of the civil practice law and rules, be docketed and enforced in the manner of a judgment of the supreme court.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-6.0.4 added chap 403/1983 § 52

CASE NOTES

¶ 1. The statute permits a landlord to give a tenant a notice of intention not to renew the lease where it intends to recover the premises for charitable purposes. The notice should be served at least 120 days before the end of the lease. However, even if the notice is served less than 120 days after the expiration of the lease, the landlord will not have to renew the lease but will merely have to give the tenant a 120-day period of continued occupancy dating from the time of service of the notice. A landlord covered by this provision can serve the notice of termination and accept rent without waiving his rights. The acceptance of rent after service of the notice does not create a month-to-month tenancy. Thus, the landlord does not have to serve a 30-day notice, which would have been required in the case of a month-to-month tenancy. Yeshiva Nesivos Chaim, 22 Misc.3d 48, 874 N.Y.S.2d 659 (App.Term 2d Dept.).

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Administrative Code of the City of New York

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NYC Administrative Code 26-516

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-516 Enforcement and procedures.

a. Subject to the conditions and limitations of this subdivision, any owner of housing accommodations who, upon complaint of a tenant, or of the state division of housing and community renewal, is found by the state division of housing and community renewal, after a reasonable opportunity to be heard, to have collected an overcharge above the rent authorized for a housing accommodation subject to this chapter shall be liable to the tenant for a penalty equal to three times the amount of such overcharge. In no event shall such treble damage penalty be assessed against an owner based solely on said owner's failure to file a timely or proper initial or annual rent registration statement. If the owner establishes by a preponderance of the evidence that the overcharge was not willful, the state division of housing and community renewal shall establish the penalty as the amount of the overcharge plus interest. (i) Except as to complaints filed pursuant to clause (ii) of this paragraph, the legal regulated rent for purposes of determining an overcharge, shall be the rent indicated in the annual registration statement filed four years prior to the most recent registration statement, (or, if more recently filed, the initial registration statement) plus in each case any subsequent lawful increases and adjustments. Where the amount of rent set forth in the annual rent registration statement filed four years prior to the most recent registration statement is not challenged within four years of its filing, neither such rent nor service of any registration shall be subject to challenge at any time thereafter. (ii) As to complaints filed within ninety days of the initial registration of a housing accommodation, the legal regulated rent shall be deemed to be the rent charged on the date four years prior to the date of the initial registration of the housing accommodation (or, if the housing accommodation was subject to this chapter for less than four years, the initial legal regulated rent) plus in each case, any lawful increases and adjustments. Where the rent charged on the date four years prior to the date of the initial registration of the accommodation cannot be established, such rent shall be established by the division.

Where the rent charged on the date four years prior to the date of initial registration of the housing accommodation cannot be established, such rent shall be established by the division provided that where a rent is established based on rentals determined under the provisions of the local emergency housing rent control act such rent must be adjusted to account for no less than the minimum increases which would be permitted if the housing accommodation were covered under the provisions of this chapter. Where the amount of rent set forth in the annual rent registration statement filed four years prior to the most recent registration statement is not challenged within four years of its filing, neither such rent nor service of any registration shall be subject to challenge at any time thereafter.

(1) The order of the state division of housing and community renewal shall apportion the owner's liability between or among two or more tenants found to have been overcharged by such owner during their particular tenancy of a unit.

(2) Except as provided under clauses (i) and (ii) of this paragraph, a complaint under this subdivision shall be filed with the state division of housing and community renewal within four years of the first overcharge alleged and no determination of an overcharge and no award or calculation of an award of the amount of an overcharge may be based upon an overcharge having occurred more than four years before the complaint is filed. (i) No penalty of three times the overcharge may be based upon an overcharge having occurred more than two years before the complaint is filed or upon an overcharge which occurred prior to April first, nineteen hundred eighty-four. (ii) Any complaint based upon overcharges occurring prior to the date of filing of the initial rent registration as provided in section 26-517 of this chapter shall be filed within ninety days of the mailing of notice to the tenant of such registration. This paragraph shall preclude examination of the rental history of the housing accommodation prior to the four-year period preceding the filing of a complaint pursuant to this subdivision.

(3) Any affected tenant shall be notified of and given an opportunity to join in any complaint filed by an officer or employee of the state division of housing and community renewal.

(4) An owner found to have overcharged may be assessed the reasonable costs and attorney's fees of the proceeding and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to section five thousand four of the civil practice law and rules.

(5) The order of the state division of housing and community renewal awarding penalties may, upon the expiration of the period in which the owner may institute a proceeding pursuant to article seventy-eight of the civil practice law and rules, be filed and enforced by a tenant in the same manner as a judgment or not in excess of twenty percent thereof per month may be offset against any rent thereafter due the owner.

b. In addition to issuing the specific orders provided for by other provisions of this law, the state division of housing and community renewal shall be empowered to enforce this law and the code by issuing, upon notice and a reasonable opportunity for the affected party to be heard, such other orders as it may deem appropriate.

c. If the owner is found by the commissioner:

(1) to have violated an order of the division the commissioner may impose by administrative order after hearing, a civil penalty in the amount of two hundred fifty dollars for the first such offense and one thousand dollars for each subsequent offense; or

(2)* to48 have harassed a tenant to obtain vacancy of his or her housing accommodation, the commissioner may impose by administrative order after hearing, a civil penalty for any such violation. Such penalty shall be in the amount of not less than one thousand dollars nor more than five thousand dollars for each such offense or for a violation consisting of conduct directed at the tenants of more than one housing accommodation.

(2)** to49 have harassed a tenant to obtain vacancy of his or her housing accommodation, the commissioner may impose by administrative order after hearing, a civil penalty for any such violation. Such penalty shall be in the

amount of up to one thousand dollars for a first such offense and up to twenty-five hundred dollars for each subsequent offense or for a violation consisting of conduct directed at the tenants of more than one housing accommodation.

Such order shall be deemed a final determination for the purposes of judicial review. Such penalty may, upon the expiration of the period for seeking review pursuant to article seventy-eight of the civil practice law and rules, be docketed and enforced in the manner of a judgment of the supreme court.

d. Any proceeding pursuant to article seventy-eight of the civil practice law and rules seeking review of any action pursuant to this chapter shall be brought within sixty days of the expiration of the ninety day period and any extension thereof provided in subdivision h of this section or the rendering of a determination, whichever is later. Any action or proceeding brought by or against the commissioner under this law shall be brought in the county in which the housing accommodation is located.

e. Violations of this law, or of the code and orders issued pursuant thereto may be enjoined by the supreme court upon proceedings commenced by the state division of housing and community renewal which shall not be required to post bond.

f. In furtherance of its responsibility to enforce this law, the state division of housing and community renewal shall be empowered to administer oaths, issue subpoenas, conduct investigations, make inspections and designate officers to hear and report. The division shall safeguard the confidentiality of information furnished to it at the request of the person furnishing same, unless such information must be made public in the interest of establishing a record for the future guidance of persons subject to this law.

g. Any owner who has duly registered a housing accommodation pursuant to section 26-517 of this chapter shall not be required to maintain or produce any records relating to rentals of such accommodation for more than four years prior to the most recent registration or annual statement for such accommodation.

h. The state division of housing and community renewal may, by regulation, provide for administrative review of all orders and determinations issued by it pursuant to this chapter. Any such regulation shall provide that if a petition for such review is not determined within ninety days after it is filed, it shall be deemed to be denied. However, the division may grant one extension not to exceed thirty days with the consent of the party filing such petition; any further extension may only be granted with the consent of all parties to the petition. No proceeding may be brought pursuant to article seventy-eight of the civil practice law and rules to challenge any order or determination which is subject to such administrative review unless such review has been sought and either (1) a determination thereon has been made or (2) the ninety day period provided for determination of the petition for review (or any extension thereof) has expired.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a amended chap 116/1997 § 33, eff. June 19, 1997 and applies to pending and subsequent

actions and proceedings.

Subd. a amended chap 253/1993 § 22, eff. July 7, 1993.

Subd. c par (2) open par amended chap 116/1997 § 28-b eff. July 19, 1997 and expires and deemed

repealed after June 15, 2011 as per amendment by chap 82/2003 § 12.

Subd. d amended chap 600/1987 § 1

DERIVATION

Formerly § YY51-6.0.5 added chap 403/1983 § 14

Section heading amended chap 102/1984 § 11

Sub h added chap 102/1984 § 12

NOTE

Ch. 600/1987 effective date.

§ 3. This act shall take effect immediately, provided that the amendment to section 26-516 of the rent stabilization law of nineteen hundred sixty-nine made by section one of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law and provided that the amendment to section twelve of the emergency tenant protection act of nineteen seventy-four made by section two of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section seventeen of chapter five hundred seventy-six of the laws of nineteen hundred seventy-four.

CASE NOTES FROM FORMER SECTION

¶ 1. The triple damage penalty provided by this section for a willful overcharge is applicable only to such overcharges made after April 1, 1984.-Blodgette v. Melohn, 124 Misc. 2d 736 [1984].

¶ 2. Although certain amendments to this section were not effective until April 1, 1984, an action to obtain a refund of overcharges with interest for excess rent collected prior to April 1, 1984 is authorized as is the collection of attorneys fees.-Blodgette v. Melohn, 124 Misc. 2d 736 [1984].

CASE NOTES

¶ 1. Treble damages for a rent overcharge were upheld because landlord failed to furnish documentation of rent records proving that there was no overcharge. Having received notice of the proceeding and failed to justify the rent charged, there can be no complaint of an adverse ruling. Sun v. DHCR, 137 Misc. 2d 434 [1987].

¶ 2. Respondent erred in granting tenant's second rent overcharge complaint after already denying same in a prior proceeding. Petition for administrative review (PAR) is deemed denied due to the expiration of the 90-day period following the filing of the petition without a determination by the administrative agency pursuant to § 26-516(h), is timely. The 60-day period to commence an article 78 proceeding does not begin to run until the 90 days (plus extension) has passed or until a determination is rendered "whichever is later". Judicial review is available. Raynes Assocs. v. DHCR, 137 Misc. 2d 484 [1987].

¶ 3. Alternative remedies in which a tenant may seek to recoup overcharge penalties from the landlord are provided in § 26-516(a)(5). Contention is that present owner is liable for rent overcharges of predecessor and that tenant may offset rent until judgment is satisfied. Tenant is right about liability for predecessor's collection of rent overcharges. Tenant receiving an award for rent overcharge penalties may enter a money judgment or deduct penalty from rent but not both. E. 7th St. Dv. Corp. v. Miller, 138 Misc. 2d 345 [1988].

¶ 4. Non-willful failure to file timely petition for administrative review (PAR) seeking treble damages for failure to show that rent overcharge was not willful does not bar judicial review. Landlords agreement to an indefinite extension of time to render decision does not bar seeking judicial review. Any review of agency determination which is not final represents a burden on the judiciary. Bloom v. DHCR, 138 Misc. 2d 523, 524 N.Y.S.2d 1014 (Sup. Ct. New York Co. 1988).

¶ 5. There is a clear duty to render decision on petition for administrative review (PAR) in a reasonable time. Respondent failed to do this within the 90-day period prescribed in the Rent Stabilization Law, § 26-516(h) and this is

grounds for mandamus to compel. Ista Mgt. Co. v. DHCR, 139 Misc. 2d 1 [1988].

¶ 6. Tenants raised treble damage claim responding to landlord's petition for administrative review (PAR) of overcharge award and were not required to file their own PAR to seek judicial review. Landlord produced fraudulent lease to obtain rent increase and burden is on landlord to establish lack of willfulness in response to an overcharge complaint. Sakraf Props v. Eimicke, 139 Misc. 2d 519 [1988].

¶ 7. Maximum based rent increases for 38 units was denied for failing to remove rent impairing violations. Thereafter DHCR made no action to reinspect. Petitioner filed an application for administrative review and has waited 10 months. DHCR failure to perform its duty within a reasonable time is not discretionary once the 90-day review period has passed, § 26-516(h). Matter is remanded to DHCR for determination. Britton Realty Co. v. DHCR, 141 Misc. 2d 683 [1988].

¶ 8. The sixty day period for commencement of an Article 78 proceeding in a rent regulation case does not begin to run until the aggrieved party receives notice of the determination sought to be reviewed. Guirdanella v. New York State Division of Housing and Community Renewal, 141 Misc.2d 714, 534 N.Y.S.2d 329 (Sup.Ct. New York Co. 1988), aff'd 165 A.D.2d 667, 564 N.Y.S.2d (1st Dept.).

¶ 9. Treble damages may be awarded for rent overcharges occurring prior to April 1, 1984, the effective date of § 26-516 unless the landlord establishes the overcharge was not willful. In this case two leases were signed on the same date for the same apartment. Second tenant occupied apartment with a lease higher than the first tenant. Subsequent rent increases were based on this higher rent giving basis for overcharge complaint. Complete rent histories should be required of landlord for cases prior to April 1, 1984. Lavanant v. DHCR, 148 AD2d 185 [1989].

¶ 10. Tenant was awarded rent rollback after J.R.D. Management Corp. failed to submit leases showing rent history. During pendency of suit amendment to former § YY51-6.0.5(g) now § 26-516(g) took effect stating an owner "shall not be required to maintain or produce any records . . . for more than four years prior to the most recent registration of premises." This amendment was improperly ignored. Case remanded for redetermination. J.R.D. Management Corp. V. Eimicke, 148 AD2d 610 [1989].

¶ 11. In March 1984, four days before the effective amendment date of section 26-516(g) of the code of the City of NY, which provided that an owner who has registered its building shall not be required to maintain or produce any records relating to rentals of premises for more than four years prior to the most recent registration of such premises, the tenant filed a complaint of rent overcharge. The respondent, NY State Division of Housing and Community Renewal's (DHCR) determination requiring the production of rent records dating back at least to June 30, 1974 must be set aside because it is well established that where a statute is amended during the pendency of a proceeding, the application of that amended statute to the pending proceeding is appropriate. Woodner Co. v. Eimicke, 160 AD2d 907.

¶ 12. The 60 day statute of limitations contained in Ad Cd §26-516 does not apply and class certification may not be denied on the ground and class certification may not be denied on the ground that plaintiff is not a proper representative of the class because her claim was time barred. Tindell v. Koch, 164 AD2d 689, 565 N.Y.S.2d 789 [1991].

¶ 13. Plaintiff landlord seeks to demolish his building, to evict his rent-controlled tenants and not offer renewal leases to his rent-stabilized tenants. Supreme Court has no right to direct DHPD to issue "no harassment" certificates based on the court's own findings or grant an injunction to enjoin DHCR to inquire into tenant harassment charges. DHCR has responsibility to adjudicate claimed harassment violations, Ad Cd §26-413(b)(2), 26-412(d), 26-511(c). Sohn v. Calderon, 78 N.Y.2d 755, 579 N.Y.S.2d 940 (1991).

¶ 14. Rent increases for a rent-stabilized apartment are not authorized unless the owner complies with the rent stabilization law regarding the filing of annual registration statements and paying annual registration fees, §26-516(g), §§26-517, 26-517.1. Owner's noncompliance requires that the rent be rolled back to the legal regulated rent. Tiebout

Holding Co. v. Cordero, 154 Misc. 2d 37 [1992].

¶ 15. Ad Cd §26-516 provides that a landlord is liable to the tenant for a penalty three times the amount of a rent overcharge. An owner may avoid the penalty if he establishes by preponderance of the evidence that the overcharge was not willful. Here petitioner did not meet that burden and an award of treble damages was made. Matter of Wai Leung Chan v. DHCR, 207 AD2d 552 [1994].

¶ 16. Landlord shall not be assessed treble damages solely on his failure to file an initial or annual rent registration statement pursuant to Ad Cd §26-516(a). At issue here is whether landlord can keep rents collected above last rent-controlled rent. Pursuant to Ad Cd §26-517(e), the court held that upon the late filing of the rent registration statement the landlord can keep the otherwise legal increases in rent collected. Verveniotis v. Cacioppo, 164 Misc. 2d 334 [1995].

¶ 17. Because a rent overcharge complaint was filed by tenant after April 1, 1984 petitioner was under no obligation to produce records dating back more than four years prior to the most recent registration date for the apartment, Ad Cd §26-516(g), and that petitioner's nonproduction of such records should not have led the DHCR to infer a violation of Rent Guidelines Board Order No. 15. Matter of Giffuni Bros. v. DHCR, 211 AD2d 545, 621 NYS2d 73 (App.Div. 1st Dept. 1995).

¶ 18. Landlord didn't file an initial rent registration for first stabilized tenant but amount was registered with DHCR. Pursuant to Ad Cd §26-517(e) if increases in rent were lawful except for failure to file a timely registration, the owner, upon the service and filing of late registration shall not be found to have overcharged at any time prior to the filing. Further, Ad Cd §26-516 provides that treble damage penalty not be assessed against owner based solely on owner's failure to file timely or proper rent registration statement. DBL Realty Corp. v. Zavala, 166 Misc. 2d 736 [1995], 637 NYS2d 612.

¶ 19. Branch v. New York State Division of Housing and Community Renewal, 628 N.Y.S.2d 975 (App.Div. 2nd Dept. 1995). Once a rent overcharge is established, the landlord has the burden of proving that the overcharge was not willful.

¶ 20. Where in a fair market rent case, the landlord fails to submit appropriate rents of comparable apartments despite being given numerous opportunities to do so, the administrative agency can determine the lawful rent solely on the basis of special rent guidelines promulgated under the Rent Stabilization Law. Janoff & Olshan v. New York State Division of Housing and Community Renewal, 203 A.D.2d 291, 609 N.Y.S.2d 673 (2nd Dept. 1994).

¶ 21. In assessing civil penalties, the administrative agency can multiply the $250 maximum penalty for a first offense by the number of violations and then by the number of years that the violations remained outstanding. Plaza Realty Investors v. Aponte, 198 A.D.2d 164, 604 N.Y.S.2d 61 (1st Dept. 1993).

¶ 22. Treble damages cannot be awarded for rent overcharges which occurred more than two years before the complaint was filed. Wolfisch v. Mailman, 196 A.D.2d 466, 601 N.Y.S.2d 300 (1st Dept. 1993).

¶ 23. Once it was determined that the landlord had overcharged the complaining tenant for rent, it became incumbent on the landlord to establish by a preponderance of the evidence that such overcharges were not willful. Chu v. New York State Division of Housing and Community Renewal, 231 A.D.2d 567, 647 N.Y.S.2d 285 (App. Div. 2nd Dept. 1996).

¶ 24. Where there was no initial registration, the legal rent rate was the last rent under rent control. Where there is no proof that a late registration statement was filed, the landlord cannot use the Rent Regulation Reform Act of 1993 as a defense to a rent overcharge claim. However, treble damages cannot be assessed against the owner based solely upon the owner's failure to file a proper initial or annual rent registration statement. The court also stated that the question of whether the landlord willfully overcharged the tenant is one of fact which is not suceptible to summary judgment. 11

Jones Street Associates v. Orbach, 168 Misc.2d 511, 646 NYS2d 916 (App.Term 1st Dept. 1996).

¶ 25. Where a landlord brings a non-payment proceeding against the tenant, the tenant can assert a setoff for rent overcharges without regard to the four year statute of limitations (CPLR 213-a) which would have applied to an affirmative claim for rent overcharges. Mansions v. Moorhead, N.Y.L.J., Oct. 8, 1996, page 25, col. 4 (App.Term 1st Dept.).

¶ 26. The requirement that a Petition for Administrative Review be brought within 35 days after the date of the order being challenged, is strictly enforced. There is no extension for a delay resulting from the agency's mailing of the order to a former address of the petitioner, where the petitioner never gave the agency notice of the change of address. Windsor Place Corp. v. New York State Division of Housing and Community Renewal, 161 A.D.2d 279, 554 N.Y.S.2d 913 (1st Dept. 1990).

¶ 27. A landlord who charged the tenant for appliances which it was aware it had not purchased or installed, and did not reimburse the tenant for more than a year after the tenant filed a complaint with the agency, was found guilty of a willful overcharge and was liable for treble damages. 985 Fifth Avenue, Inc. v. New York State Division of Housing and Community Renewal, 171 A.D.2d 572, 567 N.Y.S.2d 657 (1st Dept. 1991).

¶ 28. In a rene overcharge case, where a Petition for Administrative Review had been pending for more than the 90 day period set forth in the statute, the owner was entitled to a mandamus order directing the state agency to make a final determination within a specified period of time. Dorchester Associates New York State Division of Housing and Community Renewal, 149 A.D.2d 388, 540 N.Y.S.2d 428 (1st Dept. 1989).

¶ 29. The sixty day period for the commencement of an Article 78 proceeding runs from the date that the aggrieved party receives th e order in question from the administrative agency. Sanders v. Holland, N.Y.L.J., Oct. 4, 1996, page 22, col. 2 (Sup. Ct. New York Co.)

¶ 30. Service of an Article 78 petition upon the Attorney General was not deemed service on the New York State Division of Housing and Community Renewal for purposes of determining the timeliness of service of the petition. Thus, where the Attorney General was served within the required sixty day period but the State Division of Housing and Community Renewal was not served within that time, the Article 78 petition was dismissed. Somlo v. New York State Division of Housing and Community Renewal, 142 AD2d 535, 531 N.Y.S.2d 3 (1st Dept. 1988).

¶ 31. A landlord charged the tenant a rent increase by reason of improvements allegedly made to an individual apartment (painting and partial rewiring). When a rent overcharge proceeding was brought, the landlord claimed that the overcharge was not willful. However, it was held that the landlord should have known that the above items constituted ordinary repairs rather than "improvements" qualifying for rent increases under the Rent Stabilization Code. Therefore, it was proper for the rent agency to impose treble damages on the landlord. Mayfair York Co. v. New York State Division of Housing and Community Renewal, 658 N.Y.S.2d 270 (App.Div. 1st Dept. 1997).

¶ 32. A new owner is liable for rent overcharges collected by a prior owner. Turner v. Spear, 134 Misc.2d 733, 512 N.Y.S.2d 335 (Sup.Ct. New York Co. 1987).

¶ 33. A purchaser of a building takes subject to overcharge penalties, including treble damages, assessed upon the prior owner. The purchaser's liability is not affected by the discharge of the seller's debts in bankruptcy. Mars v. Venture Realty Group, 248 A.D.2d 101, 661 N.Y.S.2d 227 (App.Div. 2st Dept. 1997).

¶ 34. In one case, the court rejected a new owner's contention that the overcharge was not willful, and upheld an award of treble damages. The new owner had claimed that its inexperience as a landlord caused it to be misled by the advice of a prior owner that a fair market rent could be charged for the apartment once the tenant who was then in occupancy moved out. Moreover, the overcharge was not excusable on the ground that the prior owner did not provide the new owner with a full rental history. S.E. & K Corp. v. New York State Division of Housing and Community

Renewal, 657 N.Y.S.2d 601 (App.Div. 1st Dept. 1997).

¶ 35. In the First Department, it has been held that the pet law does not apply to condominiums. Board of Managers of the Parkchester North Condominium v. Quiles, 234 A.D.2d 130, 651 N.Y.S.2d 36 (1st Dept. 1997).

¶ 36. In one case, a tenant had filed a 1988 Fair Market Rent Appeal claiming that the 1987 rent was excessive. In 1995, DHCR issued an order adjusting the legal regulated rent back to 1987 and directed that the rent and all future renewal and/or vacancy increases be recomputed for the complaining tenant and successor tenants. In 1996, the successor tenant brought a rent overcharge claim. After the Rent Regulation Reform Act of 1997 (RRRA) was enacted, the landlord argued that RRRA precluded the tenant from claiming overcharges dating back more than four years prior to the filing of the rent overcharge complaint. The court, however, held that the 1996 overcharge claim could properly be based upon the 1987 rent. Once the rent recalculations were made, as required by DHCR's order, the overcharge complaint was not deemed to relate back more than four years. The amount of rent set forth in the annual registration statements for the years 1994 through 1998 must be deemed to have been effectively challenged by virtue of the pre-existing Fair Market Rent Appeal, the court said. Ferrante v. 55 Spring Street Assocs., N.Y.L.J., Dec. 15, 1998, page 25, col. 1 (App.Term 1st Dept.). See also Crabtree v. DHCR, N.Y.L.J., Dec. 9, 1998, page 26, col. 1 (Sup.Ct. New York Co.), which said that DHCR orders and decisions on Petitions for Administrative Review and Article 78 decisions are all rental events that can be considered if they were rendered within the four year period prior to filing of a rent overcharge complaint.

¶ 37. In Zafra v. Pilkes, 245 A.D.2d 218, 666 N.Y.S.2d 633 (1st Dept. 1997), the court, applying Section 26-516 as amended by the Rent Regulation Act of 1997, held that no determination of an overcharge could be based on overcharges occurring more than four years prior to the complaint.

¶ 38. A tenant cannot obtain a rent overcharge judgment personally against a partner unless that partner was specifically named as a party in the rent overcharge case. Corry Assocs. v. New York State Division of Housing and Community Renewal, 254 A.D.2d 286, 678 N.Y.S.2d 386 (App.Div. 2d Dept. 1998).

¶ 39. The Civil Court was found to have improperly given judgment in 1996 for a rent overcharge claim dating back to 1984. The RRRA of 1997 precludes an examination of rental records dating back more than four years prior to the filing of the complaint. Since the rent overcharge claim relates solely to a large rent increase which occurred in 1985, it cannot now be considered by the court. Theoharidou v. Newgarden, 176 Misc.2d 97, 673 N.Y.S.2d 813 (App.Term 1st Dept. 1998).

¶ 40. In Ouziel v. Brito, 176 Misc.2d 216, 673 N.Y.S.2d 531 (App.Term 2d Dept. 1998), the court held that party who purchased the property at a foreclosure sale was not liable for rent overcharges collected by the prior owner, in the absence of collusion between the prior owner and the new owner. Even though the new owner appointed one of the prior owners to be managing agent, the court did not find that the prior and current owner were united in interest. Here, the appointment took place more than six months after the foreclosure sale and the weight of the evidence showed that there had been an adversarial relationship between the prior owner and the new owner's husband, during the pendency of the foreclosure proceedings. The court rejected the tenant's argument that a mortgagee who purchased the premises at a foreclosure sale had a greater burden of inquiry than others who purchase at foreclosure sale. So long as the purchasing mortgagee was not on notice of rent overcharge the new owner was not liable for overcharges, the court said. Goldstein v. DHCR, 226 A.D.2d 722, 642-530 (2d Dept. 1996), where the tenant prevailed in a claim against the foreclosure purchaser. In Goldstein, the mortgagee had taken possession of the premises and had collected rent for a substantial period of time before the foreclosure sale, and thus was properly chargeable with knowledge of rent records.

¶ 41. A rent stabilized tenant can bring a direct action against the landlord by reason of a rent overcharge. The statute precludes the examination of the rental history of the subject unit for the period prior to four years before the filing of the complaint. The law applies in any action which was pending as of June 19, 1997. Thus, where a complaint of rent overcharge was filed in 1990, the agency's rent overcharge calculations could not properly refer to the 1985 rent.

Pechock v. New York State Div. of Housing and Community Renewal, 253 A.D.2d 655, 677 N.Y.S.2d 554 (App.Div. 1st Dept. 1998).

¶ 42. The constitutionality of that portion of the Rent Regulation Reform Act of 1997 which precludes an examination of any rental history prior to the four year period immediately preceding the commencement of the action, has been upheld. Daniel v. New York State Division of Housing and Community Renewal, 179 Misc.2d 452, 683 N.Y.S.2d 404 (Sup.Ct. New York Co. 1998).

¶ 43. A tenant who fails to bring a Petition for Administrative Review within 35 days after an order of deregulation will be bound by the order. In some cases, a tenant contends that he never received the order and that the 35 day period never began to run. However, where DHCR officials submit affidavits regarding the agency's mailing practices, it will not be sufficient for the tenant to merely deny having received a copy of the order. Dowling v. Holland, 245 A.D.2d 167, 666 N.Y.S.2d 585 (1st Dept. 1997).

¶ 44. The four year limitation does not apply to complaints filed before April 1, 1984. Mark Greenberg Real Estate v. DHCR, 258 A.D.2d 313, 685 N.Y.S.2d 188 (App.Div. 1st Dept. 1999).

¶ 45. A purchaser at a foreclosure sale who does not know of rent overcharge at time of bidding on sale is not responsible for rent overcharges, even if it learns of overcharge before he takes title. However, where there was a dispute of fact as to whether the purchaser learned of the facts of the rent overcharge proceeding before the bidding occurred, the court remanded the case to DHCR for a determination on the facts. Cooke v. DHCR, 179 Misc.2d 418, 684 N.Y.S.2d 767 (Sup.Ct. New York Co. 1999).

¶ 46. A statute which limited inquiry into rental history to four year period prior to filing of the complaint was not so lacking in reason as to be arbitrary, and was constitutionally valid. The fact that the tenant already had an order granting an overcharge award covering, in part, a period more than four years prior to the complaint, did not give the tenant a vested right, and the Deputy Commissioner could lawfully change the ruling at the PAR level on the basis of the changes created by the RRRA. Gelston v. DCHR, 177 Misc.2d 431, 676 N.Y.S.2d 765 (Sup.Ct. Queens Co. 1998).

¶ 47. A new owner can be held liable for overcharges incurred by a prior owner, but will be entitled to recoup from the prior owner the amount paid to the tenant. DiMaggio v. DHCR, 248 A.D.2d 533, 670 N.Y.S.2d 501 (2d Dept. 1998).

¶ 48. A tenant's claim for rent overcharge, which accrued in 1990, when the tenant first entered into possession of the apartment, was time barred since it was not filed until 1995. The four-year statute of limitations commenced running with the first overcharge alleged, and the statute precludes examination of the rent history of the apartment prior to the four-year period preceding the filing of the rent overcharge complaint. Myers v. Frankel, 292 A.D.2d 575, 740 N.Y.S.2d 366 (2d Dept. 2002).

¶ 49. Normally, a new owner will not be liable in treble damages for overcharges imposed by the prior owner. However, the new owner is liable to the tenant for interest on the overcharge in question. Heights Assoc. v. Bautista, N.Y.L.J., June 29, 1998, page 30, col. 1 (App. Term 2d & 11th Judic. Dists.).

¶ 50. The New York County Supreme Court disagreed with the decision of the Appellate Term, Second Department in Heights Assocs. v. Bautista, 178 Misc.2d 669 (1998), and held that a new owner, even though technically not the wrongdoer, can be liable for treble damages for overcharges collected by a prior owner. The court's rationale was that this was the only way to prevent owners from avoiding liability for overcharges. The court pointed out that the conduct of the prior owner was particularly egregious in seeking repeated adjournments rather than responding to the claim. 500 West End Ave. Owners, Ltd. v. DHCR, N.Y.L.J., June 21, 2000, page 29, col. 5 (Sup.Ct. New York Co.).

¶ 51. A tenant may maintain a rent overcharge claim based on a services reduction order (landlord's failure to provide services; see Admin. Code Sec. 26-514) even though the order was entered more than four years prior to the

overcharge complaint. In other words, the landlord's obligation to restore services is a continuing obligation, and the statute of limitations is not a defense to an action based on breaches of that duty occurring within the four-year period. Thelma Realty v. Harvey, 190 Misc.2d 303, 737 N.Y.S.2d 500 (App.Term 1st Dept. 2001).

¶ 52. A tenant who elects to proceed on a rent overcharge complaint before the administrative agency, and who receives a favorable determination, has the option of either taking an offset against the monthly rent or filing the administrative order in the same manner as a judgment. There is no other basis for enforcement of the order. Under those circumstances, a plenary action to recover rent overcharges is not permitted. Bowen v. East 13th Street Realty Co., N.Y.L.J., Sept. 23, 1999, page 26, col. 3 (App.Term 1st Dept.).

¶ 53. The four-year statute of limitations does not retroactively apply to a rent overcharge complaint filed prior to April 1, 1984. Thus, where the complaint was filed prior to that date, the entire rent history may be considered. Mengoni v. DHCR, 97 N.Y.2d 630, 735 N.Y.S.2d 863 (2001). See also, Roth v. DHCR, 739 N.Y.S.2d 641 (App.Div. 1st Dept. 2002); Joseph Peppie Realty Corp. v. DHCR, 265 A.D.2d 173, 696 N.Y.S.2d 42 (1st Dept. 1999).

¶ 54. Where a landlord was unable to adequately document alleged improvements made to apartments, and improperly applied a vacancy increase percentage, the landlord was subject to treble damages by reason of a willful rent overcharge. Artnor Realty Co. v. DHCR, 265 A.D.2d 183, 695 N.Y.S.2d 567 (1st Dept. 1999).

¶ 55. One case, contra to Schutt, took position that the four year SOL won't apply to FMRA where no registration was ever filed. Kempner v. DHCR, N.Y.L.J., Oct. 27, 1999, page 28, col. 2 (Sup.Ct. New York Co.).

¶ 56. A tenant is precluded from examining the rental history of the unit prior to the four-year period immediately preceding the filing of the rent overcharge complaint. This is true even where the landlord cannot prove that it ever served or filed an initial registration for the apartment. Moreover, the court rejected the tenant's constitutional challenge to the four-year provision of the Rent Regulation Reform Act of 1997. The RRRA merely clarified existing law and did not impermissibly interfere with any vested rights of the tenant, the court said. Brinckerhoff v. DHCR, N.Y.L.J., Nov. 24, 1999, page 30, col. 4 (Sup.Ct. New York Co.).

¶ 57. On the application of the four-year rule, see Negron v. Goldman, N.Y.L.J., May 4, 1999, page 26, col. 2 (App.Term 1st Dept.).

¶ 58. A rent overcharge award can be particularly harsh on an owner where the proceeding has been pending for a long period of time prior to the award. In one case, the rent agency was guilty of gross delays and then issued a rent overcharge award dating back to 1985, effectively denying the landlord the benefit of lawful increases since that date. The court found that the delay was prejudicial to the rights of the landlord, and directed the agency to reconsider whether the landlord might be entitled to lawful increases in rent for some of the years during which the proceeding was pending. Lukin v. DHCR, 264 A.D.2d 341, 694 N.Y.S.2d 63 (1st Dept. 1999).

¶ 59. In one case, petitioner sought to avoid treble damages by alleging that its failure to reduce rent in accordance with a DHCR order was a bookkeeping error and was not willful. The court, however, rejected this defense. Petitioner had sold the building, taking back a mortgage from the purchaser. When the purchaser defaulted on the mortgage, petitioner foreclosed and took back the property. Since a portion of the overcharges accrued during the period of petitioner's ownership of the property, the court held that petitioner was not entitled to invoke the rules that otherwise protected bona fide foreclosure purchasers from treble damages. Hollis Realty v. Glover, N.Y.L.J., Jan. 13, 1999, page 29, col. 2 (App.Term 2d & 11th Judic. Dists.).

¶ 60. In a rent overcharge case, DHCR asked for a rental history, including leases, riders and ledgers, that would substantiate the basis of the rent being charged the tenant. The court held that the landlord's submission of copies of some leases, apartment registrations and a Major Capital Improvement order, were not sufficient. The court rejected the landlord's excuse that the records had been placed in deep storage when the landlord moved offices, since the landlord still had ample time to retrieve the records. The registration statements are not alone sufficient evidence of vacancies,

lease renewals or the rent charged, because these are unilaterally filled out by the landlord and not necessarily verified by the tenant or by DHCR. Oxford East Assocs. v. DHCR, N.Y.L.J, Apr. 7, 1999, page 30, col. 3 (Sup.Ct. New York Co.).

¶ 61. In one case, rents paid back in 1987 were never registered, and registration did not occur until 1997. The court held that even under this state of facts, it could not consider any rents charged more than four years prior to the filing of the rent overcharge complaint. In other words, the four-year statute of limitations involves a lookback to the date when the rent was paid, not to the later registration date, the court said. Bragston Realty Corp. v. Dixon, N.Y.L.J., July 6, 1999, page 29, col. 3 (App.Term 2nd & 11th Judic. Dists.).

¶ 62. If a tenant has brought a rent overcharge complaint and the landlord then belatedly serves an initial rent registration form, the tenant is not required to file a new overcharge complaint but can rely upon the original complaint. Ilovik Realty Corp. v. DHCR, N.Y.L.J., July 14, 1999, page 29, col. 3 (Sup.Ct. Queens Co.).

¶ 63. With the exception of persons who purchase buildings at a foreclosure sale, new owners can be liable for overcharges collected by the prior owner. Luna v. Gjokaj, N.Y.L.J., Mar. 15, 2000, page 28, col. 1 (Civ.Ct. Bronx Co.).

¶ 64. The landlord's sending of a letter to DHCR will not extend the time for serving a petition for administrative review. Boulevard Tenants Corp. v. DHCR, 264 A.D.2d 444, 694 N.Y.S.2d 442 (2d Dept. 1999).

¶ 65. For purposes of the four-year rule governing rent overcharge claims, courts look at two dates-the date that the rent overcharge complaint was filed, and the date that the rent registration was filed by the landlord. Here, in January 1993, the landlord filed rent registration statements covering the years 1986 through 1992. The tenant filed the complaint in 1996. The court held that since the complaint was filed no more than four years after the rent registrations were filed, the complaint could properly the 1986 through 1992 rents, even though the rents in question covered periods more than four years prior to the tenant's complaint. Crabtree v. DHCR, N.Y.L.J., July 19, 2000, page 23, col. 3 (Sup.Ct. New York Co.).

¶ 66. In one case, where an apartment was vacant, the landlord registered the premises using the rent paid by the last tenant. Some time after the registration statement was filed, a new tenant moved in, under a lease calling for a substantially higher rent than that recited in the registration statement. The new tenant then brought a rent overcharge proceeding, pointing out that even though the last rent paid by anyone was more than four years before the filing of the overcharge complaint, the last registered rent was within the four-year period. Thus, the tenant argued that the last registered rent should be considered as part of the rental history for purposes of determining whether or not there had been an overcharge. However, DHCR determined that the rent listed in the registration statement was not part of the rental history, and the court upheld that decision. Thus, the actual rental history that falls outside the four-year period does not become reviewable merely because it is listed in a registration statement filed within the four-year period. DHCR correctly used the first rent charged to the tenant after the vacancy as the initial legal regulated rent in order to calculate any increases taken within the four-year period. McCarthy v. DHCR, 290 A.D.2d 313, 736 N.Y.S.2d 353 (1st Dept. 2002).

¶ 67. A landlord filed annual rent registration statements for the years 1993 through 1997. In 1998, in response to a summary non-payment proceeding brought by the landlord, the tenant asserted a counterclaim for rent overcharges. In that counterclaim, the tenant sought to go back to 1992, claiming that there was no proof that the landlord had served an initial registration statement in that year. The court, however, held that this was precisely the type of rent challenge that the four-year provision of the Rent Regulation Act of 1997 sought to prevent. Thus, since there were rent registration statements filed for all of the four years prior to the tenant's assertion of the counterclaim, the tenant could not challenge the 1992 rents. Ennismore Apts., Inc. v. Valenti, N.Y.L.J., Jan. 2, 2001, page 29, col. 2 (App.Term 1st Dept.).

¶ 68. Loft premises are different from other rent regulated premises. Rent stabilized buildings are registered right from the outset. However, a loft building may be under Interim Multiple Dwelling status for years, during which the

landlord is required to bring the building into compliance with residential building codes. Interim Multiple Dwelling rents are not registered at all until the owner reports to the Loft Board and places the tenant on notice of what he or she claims the legal rent should be. Where the Loft Board is setting the legal regulated rent for the first time, and the tenant is claiming rent overcharges, the tenant can demand an examination of the entire rental history for the unit. In other words, where no legal regulated rent had previously been set for the unit, the tenant can obtain an examination even of rents that were charged more than four years prior to the filing of the tenant's complaint. Sori-Goalya v. New York City Loft Board, N.Y.L.J., Feb.28, 2001, page 19, col. 1 (Sup.Ct. New York Co.). The Appellate Division, First Department affirmed, stating that the Rent Regulation Reform Act of 1997 did not apply to rent overcharge proceedings of the Loft Board. Sori-Goalya v. New York City Loft Board, 284 A.D.2d 137, 726 N.Y.S.2d 93 (1st Dept. 2001), leave to appeal denied, 97 N.Y.2d 601, 735 N.Y.S.2d 490 (2001).

¶ 69. In one case, DHCR had issued a rent reduction order by reason of the failure of the landlord to maintain required services. The rent reduction order was still on record more than ten years later. The court held that, despite the fact that the rent reduction order was more than four years old, it was still in effect and could be considered in determining the amount of any rent overcharge. However, the court did not summarily determine the overcharge question, and gave the landlord the opportunity to apply to DHCR for a determination that the rent reduction order was no longer in effect, or to apply for a rent restoration order with retroactive effect. Thelma Realty Co. v. Harvey, N.Y.L.J., Aug.23, 2000, page26, col. 3 (Civ.Ct.Kings Co.).

¶ 70. Before the effective date of the Omnibus Housing Act of 1983 (April1, 1984), tenants were not limited to a four-year period in terms of rent overcharge claims. Before the enactment of the Rent Regulation Act of 1997 (RRRA), there was a split of authority between the First and Second Departments as to whether a tenant who filed a rent overcharge complaint prior to April 1, 1984 could still use the old law, under which tenants could go back more than four years. However, the Appellate Division Second Department has now ruled that the RRRA created a straight four-year rule, so that even tenants who filed their rent overcharge complaints before April 1, 1984 cannot go back more than four years. Orin Management v. DHCR, 275 A.D.2d 126, 713 N.Y.S.2d 556 (2d Dept. 2000).

¶ 71. A tenant can challenge the rents set forth in a rent registration statement which was filed less than four years prior to the filing of the rent overcharge complaint, even if the challenged rents were actually collected by the landlord more than four years prior to the filing of the complaint. In other words, the time to challenge a rent registration speaks not to the time at which the rents should have been filed, but to the actual date that the registration was filed. Crabtree v. DHCR, N.Y.L.J., July 19, 2000, page 23, col. 3 (Sup.Ct. New York Co.).

¶ 72. An owner who purchased the premises at a foreclosure sale was able to avoid liability for treble damages in connection with rent overcharges collected by the prior owner. The tenant did not introduce any evidence to contradict the owner's contention that at the time of its purchase, it had no notice of the prior owner's overcharges. Moreover, the new owner had shown evidence of good faith, in that as soon as it learned of the overcharge, it immediately credited the tenant for the amount of overcharges collected during the new owner's tenure. Gerard v. Supreme Co., 277 A.D.2d 154, 717 N.Y.S.2d 106 (App.Div. 1st Dept. 2000).

¶ 73. SOL on both administrative and judicial overcharge complaints runs from first overcharge alleged. Also, a fraud claim, which is incidental to RO claim will also be time barred. Ct also rejected claim that retroactive applic of the SOL, which effectively shortened the limits for already pending overcharge claims, denied T's due process. Brinckerhoff v DHCR, 275 A.D.2d 622, 713 N.Y.S.2d 56 (1st Dept. 2000), leave to appeal dismissed 96 N.Y.2d 729, 722 N.Y.S.2d 795 (2001).

¶ 74. A tenant cannot assert a rent overcharge accruing more than four years prior to the filing of the complaint. The four-year period applies even though the landlord filed the last registration statement several years before the beginning of the four-year period. Sessler v. DHCR, 722 N.Y.S.2d 864 (1st Dept. 2001).

¶ 75. Provisions permitting recovery of treble damages for a rent overcharge are authorized by a penal provision in

the state enabling legislation, and clearly reflect the legislative intent that treble damages are to be imposed as a penalty. Cox v. Microsoft Corp., 290 A.D.2d 206, 737 N.Y.S.2d 1 (1st Dept. 2002).

¶ 76. Cecelia v. Irizarry, 292 A.D.2d 557, 740 N.Y.S.2d 89 (2d Dept. 2002). A claim for recovery of damages, predicated on a registration statement filed in 1984, is not timely.

¶ 77. The DHCR acted rationally in imposing a rent overcharge penalty upon the current owner of a building, because the prior owner and the current owner failed to file annual registration statements. L.G.B. Assocs. v. DHCR, 292 A.D.2d 609, 739 N.Y.S.2d 444 (2d Dept. 2002).

¶ 78. The DHCR rationally applied the four-year statute retroactively to a rent overcharge complaint filed before the enactment of the statute, where the apartment was vacant four years before the filing of the overcharge complaint by the tenant's predecessor (her sister), and the sister was the only tenant to occupy the apartment within the reviewable four-year period. Marmelstein v. DHCR, 292 A.D.2d 207, 739 N.Y.S.2d 143 (1st Dept. 2002).

¶ 79. The tenant took occupancy on August 1, 1984 and filed a rent overcharge complaint on August 18, 1988. The landlord argued that DHCR was precluded from considering any rental history prior to August 18, 1984, and that since the rent charged as of August 18, 1984 was $2410, the tenant was now precluded from challenging that figure. However, the landlord had filed registration statements in 1985 and 1986 falsely stating the rent to be $1488.95 and listing a lease that commenced on August 1, 1984, using fictitious names for the tenants. For more than a decade, the landlord did not offer the tenants a lease. Under the circumstances, the court held that it was rational for DHCR to fix the base rent in the amount stated in the first reviewable registration statements rather than the unexplained amount actually charged and collected. To do otherwise would be to render largely meaningless a rent registration system that requires landlords to substantiate the lawfulness of their rents. Since DHCR fixed a rent base date of August 1984, and the registration statements it relied upon were filed in 1985 and 1986, there is no problem with the four-year rule. Lyndonville Properties Management, Inc. v. DHCR, 291 A.D.2d 311, 737 N.Y.S.2d 617 (1st Dept. 2002).

¶ 80. Where the tenant was receiving benefits under Section 8 of the Housing Act of 1937 (known as Section 8), and the tenant's boy friend paid the landlord an "under the table" rent over and above the Section 8 amount, the amount paid by the boy friend could form the basis of a rent overcharge complaint. Even though the tenant had suggested this arrangement, as part of an attempt to hide her true income status from the Section 8 administrators, the court held that the tenant would not be stopped from recovering the excess rent. The court said that to permit an owner to increase a subsidized tenant's share of the rent beyond the legal limit would subvert the very purpose of the federal law. Rent subsidies are intended to decrease the tenant's rent, not to increase the landlord's return. Crutchley v. Costa, 2002 WL 452200 (Dist.Ct. Nassau Co.).

¶ 81. The Civil Court and DHCR have concurrent jurisdiction in rent overcharge cases. Thus, it was proper for the Civil Court to assume jurisdiction over the rent overcharge claim in a nonpayment proceeding which was based on amended registrations filed subsequent to tenant's complaint to DHCR. Classic Equities, LLC v. Garrity, 2001 WL 1635443, N.Y.L.J., Dec. 16, 2001, page 18, col. 1 (App.Term 1st Dept.).

¶ 82. Civil Court retains jurisdiction to hear a counterclaim for rent overcharge, even after dismissal of the landlord's non-payment petition. Crutchley v. Costa, 2001 WL 1666007 (Dist.Ct. Nassau Co.); Platzer v. Germain, N.Y.L.J., June 11, 1990, page 32, col. 1 (App.Term 9th & 10th Judic. Dists.).

¶ 83. Where the tenant is the first rent stabilized tenant, he or she cannot assert a claim for rent overcharge but must instead bring a Fair Market Rent Appeal. Ramlie v. Soufer Family, 287 A.D.2d 388, 731 N.Y.S.2d 455 (1st Dept. 2001).

¶ 84. Where the timeliness of an Article 78 is in issue, it is important to establish the date on which an order denying a Petition for Administrative Review (PAR) was received. In one case, where the agency mailed the order to the landlord "care of" the landlord's attorneys, the time period for brining an Article 78 proceeding ran from the date

that the law firm received the order. In other words, it was the responsibility of the law firm to forward the mailing to the correct client file, so that the attorney handling the case could act upon it. Moreover, where DHCR's representative submitted an affidavit establishing the date of mailing, the mere denial of receipt by the law firm attorney handling the case was insufficient to rebut the presumption of receipt of the mailing. 219 East 25th Street Realty Co. v. DHCR, 298 A.D.2d 240, 748 N.Y.S.2d 157 (1st Dept. 2002).

¶ 85. In one case, a tenant who prevailed on an overcharge complaint elected to take a credit against future rent. The tenant began taking the credit against rent due to the landlord. A court held that even after the building was taken over by an Article 7A Administrator, the tenant could continue to take the credit until the overcharge award was collected. Olton v. Hunter, N.Y.L.J., July 10, 2002, page 28, col. 2 (Civ.Ct. New York Co.)

¶ 86. The proper method for challenging the granting of a Major Capital Improvement Increase is by means of an Article 78 proceeding to review the rent agency's determination. A tenant who fails to use this remedy cannot mount a collateral attack on the MCI increase in a Housing Court non-payment proceeding. Dara Realty Assocs. v. Schachter, 194 Misc.2d 29, 751 N.Y.S.2d 677 (App.Term 2d Dept.).

¶ 87. Upon reclassifying a hotel to an apartment building, DHCR can retroactively roll back rents, but rent overcharge claims are limited to a four-year period. Benjamin Shapiro Realty Co. v. DHCR, 2 A.D.3d 220, 769 N.Y.S.2d 226 (1st Dept. 2003).

¶ 88. In one case, a court found that a rent overcharge was willful where the landlord knowingly charged rent for improvements purportedly made before the present tenant moved in, when in fact the improvements had never been made. The fact that the District Rent Administrator initially found in the landlord's favor, and that this finding was not reversed until the proceeding had been pending a total of ten years, did not make the overcharge any less willful. Thus, award of treble damages was sustained. Samouha v. DHCR, 309 A.D.2d 523, 765 N.Y.S.2d 325 (1st Dept. 2003)

¶ 89. Where a landlord was on notice of a DHCR rent reduction order, which provided that no rent increase could be collected until a rent restoration order had been issued, a landlord's statement, that she was not aware that the order prohibited an increase in rent until services were restored, was not sufficient to rebut the presumption that the overcharge was willful. Raffo v. McIntosh, 2004 WL 906582 (Apr.12, 2004) (App.Term 1st Dept.).

¶ 90. In one case, the tenant received an overcharge award of over $16,000, and credited the award against his rent. The building was in such poor condition that an administrator was appointed under Article 7A of the Real Property Actions and Proceedings Law (7A Administrator). The 7A Administrator claimed that the overcharge order could not be enforced once a 7A Administrator was appointed, and brought a summary non-payment proceeding against the tenant. The court, however, held that for the purposes of enforcement of a rent overcharge award, the 7A Administrator stood in the same position as the owner. Thus, the tenant could continue to credit the award against his rent, and the non-payment proceeding was dismissed. Olton v. Hunter N.Y.L.J. May 25, 2004, at 27, col. 1 (App.Term 1st Dept.).

¶ 91. The rule prohibiting the agency from reviewing rental history beyond the four-year period applies even if the landlord applies for restoration of rent (i.e. rent previously reduced because of lack of building services) within the four-year period. Highlawn Assocs. v. DHCR, 309 A.D.2d 750, 765 N.Y.S.2d 272 (2d Dept. 2003).

¶ 92. Suppose the landlord gives the tenant a rent concession (preferential lease) in exchange for the tenant's agreement to relocate to a different apartment. Suppose further that at the end of the lease, the landlord demands offers a renewal lease at a rent calculated by adding the rent guidelines figure to the rent which would have been legally payable during the term of the prior lease if there had been no preferential lease. In such a case, there is a rent overcharge. The court held that the four-year period began to run when the lease end and the landlord failed to offer a renewal lease whose rent should have been calculated by adding the guidelines increase to the preferential rent. Aljaz v. Hillside Place, LLC, 3 Misc.3d 754, 774 N.Y.S.2d 662 (Civ.Ct. Queens Co. 2004).

¶ 93. In one order deciding a Petition for Administrative Review (PAR), DHCR awarded treble damages for a rent

overcharge, covering up to the time when the District Rent Administrator (DRA) issued the rent overcharge. Up to that point, the award of treble damages was in lieu of an award of interest. The PAR order then provided that the award could be entered as a judgment and that the county clerk could add interest (at the legal rate) to the overcharge from the issuance date of the DRA order to the issuance date of the PAR order. Some time elapsed between the date of the PAR order and the date of entry of the judgment, largely because the landlord brought an Article 78 proceeding against DHCR. The question was whether the court could add interest for the period between the issuance of the PAR order and the entry of the judgment, and continuing after the entry of judgment until the judgment was satisfied. The Appellate Division said that the answer was yes, since the landlord did not show that the delay was the fault of the tenant. The tenant was not even **allowed** to enter the award until after the landlord's Article 78 proceeding was concluded. Mohassel v. Fenwick, 6 A.D.2d 234, 775 N.Y.S.2d 257 (1st Dept. 2004).

¶ 94. In one case, a rent reduction order was imposed by DHCR on the landlord, more than four years prior to the tenant's filing of an overcharge complaint. The order, however, was still in effect at the time of the filing of the complaint. The court held that, although the statute precludes examination of the rent history of an apartment prior to the four-year period preceding the filing of a rent overcharge complaint, where a duty imposed prior to a limitations period is a continuing one, the statute of limitations is not a defense to actions based on breaches of that duty occurring during the limitations period. Since the rent reduction order imposed upon the landlord a continuing obligation to reduce rent, the tenant can recover overcharges covering a maximum of four years prior to the complaint. Matter of Condo Units, LP v. DHCR, 4 A.D.3d 424, 771 N.Y.S.2d 380 (2d Dept. 2004).

¶ 95. The agency's determination not to award treble damages is entitled to judicial deference, since it turns in part on a factual matter of whether the landlord proved that the overcharge was not willful. Waverly Assocs. v. DHCR, 12 A.D.3d 272, 785 N.Y.S.2d 67 (1st Dept. 2004).

¶ 96. A tenant is entitled to interest on an overcharge award, from the date of the award until the landlord satisfies the judgment. Waverly Assocs. v. DHCR, 12 A.D.3d 272, 785 N.Y.S.2d 67 (1st Dept. 2004).

¶ 97. The agency has discretion as to whether or not to award attorneys' fees in a rent overcharge case (the court did not indicate whether the lease had an attorneys' fees clause, which might, depending on the wording, have afforded the tenant a right to attorneys' fees). Waverly Assocs. v. DHCR, 12 A.D.3d 272, 785 N.Y.S.2d 67 (1st Dept. 2004).

¶ 98. In calculating the 60-day period within which an Article 78 proceeding must be commenced, the time begins to run when the agency mails the decision to petitioner (or in this case, petitioner's counsel), not from the time that petitioner (or the counsel) receives the decision. LeHavre Tenants' Association v. DHCR, 17 A.D.3d 268, 793 N.Y.S.2d 80 (3d Dept. 2005).

¶ 99. Where a landlord failed to produce credible evidence of improvements that would justify a rent increase, the landlord had not proven that a rent overcharge was not willful. Thus, treble damages could be imposed. Mangano v. N.Y. State Div. of Housing and Community Renewal, 30 A.D.3d 267, 817 N.Y.S.2d 262 (1st Dept. 2006).

¶ 100. Where a landlord seeks to avoid treble damages by showing that the rent charged was charged in good faith, the landlord can, on the good faith issue, introduce evidence going back more than a four-year limitation period. H.O. Realty Corp. v. DHCR, 46 A.D.3d 103, 844 N.Y.S.2d 204 (1st Dept. 2007).

¶ 101. The statutory provision which permits a subtenant to recover treble damages from a prime tenant in cases of willful overcharge, does not violate the constitutional right of equal protection. Gboizo v. DHCR, 13 Misc.3d 714, 820 N.Y.S.2d 989 (Sup.Ct. New York Co. 2006).

¶ 102. It is possible for a landlord to be guilty of an overcharge even if the rent charged is actually well below market levels. In one case, the tenant, who never had a lease, paid only $300 a month as rent, from 1982 to 2000. There had never been a renewal lease. In 2000, the landlord increased the rent to $400 a month (still way below market), which the tenant paid. However, in 2004, the tenant brought a rent overcharge proceeding before DHCR. The Appellate

Division (reversing the trial court) upheld DHCR's ruling that in the absence of a renewal lease, the legal regulated rent was $300 a month, i.e. the rent charged on the base date, which was four years prior to the filing of the rent overcharge complaint. The appellate court also upheld the agency's finding that the landlord had failed to prove that the overcharge was not willful. Accordingly, the tenant was entitled to treble damages. Ellis v. DHCR 2007 NY Slip Op. 8459, 45 AD3d 594, 845 NYS2d 407, 2007 NY App. Div. Lexis 11384 (App. Div. 2nd Dept.).

¶ 103. In 508 Realty Assoc., LLC v. DHCR, 61 AD3d 753, 877 NYS2d 392 (2d Dept. 2009), the court affirmed an award of treble damages. The Rent Stabilization Law (Admin. Code of the City of NY §26-501 et seq.) provides that if DHCR finds that a landlord, after a reasonable opportunity to be heard, has collected an overcharge above the rent authorized for a housing accommodation, the landlord will be liable to the tenant for triple the amount of the overcharge. (See Admin. Code of the City of NY §26-516[a]). In this type of proceeding, it is the landlord's burden to prove, by a preponderance of the evidence standard, that the overcharge was not willful. If there is no proof to support the landlord's arguments, he will be assessed the aforementioned penalty. In reviewing a determination made by an administrative agency such as the DHCR, the court's inquiry is limited to whether the determination is arbitrary or capricious. In this case, the documentation of the rental history of the apartment provided by the petitioner landlord was riddled with inaccuracies and discrepancies. For example, two of the lease renewal forms covered the same period, but listed different rents and reportedly permissible rent increases for the apartment. Moreover, one of the lease renewal forms indicated that it was signed eight months after the term of the renewal lease commenced. In addition, it is undisputed that the apartments in the same building had not been registered with the DHCR for the relevant five year period.

¶ 104. In one case, the court upheld a DHCR determination that took notice of rent reduction orders which were issued more than two years prior to the filing of the overcharge complaint but that limited the amount of rent overcharges recoverable to the four years prior to the filing of the overcharge complaint. Cintron v. Calogero, 59 A.D.3d 345, 874 N.Y.S.2d 76 (1st Dept. 2009). See also, Jenkins v. Fieldbridge Assocs., ____ A.D.3d ____ , 877 N.Y.S.2d 375 (2d Dept. 2009).

FOOTNOTES

48

[Footnote 48]: ** This paragraph effective until June 15, 2011.

49

[Footnote 49]: ** This paragraph effective June 16, 2011.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-517

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-517 Rent registration.

a. Each housing accommodation which is subject to this law shall be registered by the owner thereof with the state division of housing and community renewal prior to July first, nineteen hundred eighty-four upon forms prescribed by the commissioner. The data to be provided on such forms shall include the following: (1) the name and address of the building or group of buildings or development in which such housing accommodation is located and the owner and the tenant thereof; (2) the number of housing accommodations in the building or group of buildings or development in which such housing accommodation is located; (3) the number of housing accommodations in such building or group of buildings or development subject to this code and the number of such housing accommodations subject to the local emergency housing rent control act; (4) the rent charged on the registration date; (5) the number of rooms in such housing accommodation; and (6) all services provided on the date that the housing accommodation became subject to this chapter.

a-1. Within thirty days of changing his address, the managing agent or, if there is no managing agent, the owner, of a building or group of buildings or development, such agent or owner shall advise the state division of housing and community renewal and all tenants of his new address.

b. Registration pursuant to this section shall not be subject to the freedom of information law provided that registration information relative to a tenant, owner, lessor or subtenant shall be made available to such party or his or her authorized representative.

c. Housing accommodations which become subject to this chapter after the initial registration period must be registered within ninety days thereafter. Registration of housing accommodations subject to the local emergency

housing rent control act immediately prior to the date of initial registration as provided in this section shall include, in addition to the items listed above, where existing, the maximum base rent immediately prior to the date that such housing accommodations become subject to this chapter.

d. Copies of the registration shall be filed with the state division of housing and community renewal in such place or places as it may require. In addition, one copy of that portion of the registration statement which pertains to the tenant's unit must be mailed by the owner to the tenant in possession at the time of initial registration or to the first tenant in occupancy if the apartment is vacant at the time of initial registration.

e. The failure to file a proper and timely initial or annual rent registration statement shall, until such time as such registration is filed, bar an owner from applying for or collecting any rent in excess of the legal regulated rent in effect on the date of the last preceding registration statement or if no such statements have been filed, the legal regulated rent in effect on the date that the housing accommodation became subject to the registration requirements of this section. The filing of a late registration shall result in the prospective elimination of such sanctions and provided that increases in the legal regulated rent were lawful except for the failure to file a timely registration, the owner, upon the service and filing of a late registration, shall not be found to have collected an overcharge at any time prior to the filing of the late registration. If such late registration is filed subsequent to the filing of an overcharge complaint, the owner shall be assessed a late filing surcharge for each late registration in an amount equal to fifty percent of the timely rent registration fee.

f. An annual statement shall be filed containing the current rent for each unit and such other information contained in subdivision a of this section as shall be required by the division. The owner shall provide each tenant then in occupancy with a copy of that portion of such annual statement as pertains to the tenant's unit.

g. Each housing accommodation for which a timely registration statement was filed between April first, nineteen hundred eighty-four and June thirtieth, nineteen hundred eighty-four, pursuant to subdivision a of this section shall designate the rent charged on April first, nineteen hundred eighty-four, as the rent charged on the registration date.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a-1 added ch. 96/1989 § 1

Subd. e amended ch. 253/1993 § 23, eff. July 7, 1993.

DERIVATION

Formerly § YY51-6.0.6 added chap 403/1983 § 15

Sub g added chap 102/1984 § 13

CASE NOTES

¶ 1. Rent increases for a rent-stabilized apartment are not authorized unless the owner complies with the rent stabilization law regarding the filing of annual registration statements and paying annual registration fees, §26-516(g), §§26-517, 26-517.1. Owner's noncompliance requires that the rent be rolled back to the legal regulated rent. Tiebout Holding Co. v. Cordero, 154 Misc.2d 37, 583 N.Y.S.2d 350 (Civ.Ct. Bronx Co. 1992), aff'd in part and modified on other grounds, 154 Misc.2d 43, 592 N.Y.S.2d 904 (App.Term 1st Dept. 1992).

¶ 2. Where landlord failed to file annual rent registration statements pursuant to Ad Code §26-517(e) for 1988 through 1990 until March 1994 tenant is not entitled to return of any alleged overcharges based solely on such failure to file when owner has served and filed late registrations and the rent increase (overcharge) was otherwise lawful.

Likewise the owner is not entitled to any retroactive rent increase occurring prior to his filing of registration statement. 17 E. 101 St. v. Huguenin, 161 Misc.2d 815, 614 N.Y.S.2d 1003 [1994].

¶ 3. It was irrational for DHRC to deny an application for a major capital improvement rent increase on grounds that petitioner failed to file registration statements for 1987 and 1988. This was immaterial because these two registrations were not due at time application was filed. Further, Administrative Code §26-517(e) provides for prospective elimination of sanctions for failure to timely file registration statements. Matter of 226 E. 13th St. Ltd. Partnership v. DHCR, 215 AD2d 277 [1996].

¶ 4. Landlord shall not be assessed treble damages solely on his failure to file an initial or annual rent registration statement pursuant to Ad Cd §26-516(a). At issue here is whether landlord can keep rents collected above last rent-controlled rent. Pursuant to Ad Cd §26-517(e), the court held that upon the late filing of the rent registration statement the landlord can keep the otherwise legal increases in rent collected. Verveniotis v. Cacioppo, 164 Misc. 2d 334 [1995].

¶ 5. Landlord didn't file an initial rent registration for first stabilized tenant but amount was registered with DHCR. Pursuant to Ad Cd §26-517(e) if increases in rent were lawful except for failure to file a timely registration, the owner, upon the service and filing of late registration shall not be found to have overcharged at any time prior to the filing. Further, Ad Cd §26-516 provides that treble damage penalty not be assessed against owner based solely on owner's failure to file timely or proper rent registration statement. DBL Realty Corp. v. Zavala, 166 Misc. 2d 736 [1995], 637 NYS2d 612.

¶ 6. Court ordered modification of Rent Administration Department order, vacating a penalty and retroactively vacated the freeze imposed on the rent imposed. Under Ad Cd §26-517(e) and Rent Stabilization Code (9 NYCRR) §2528.4, a rent freeze imposed because of an owner's failure to file rent stabilization registration statements may be prospectively eliminated upon the filing of those statements. The statute makes no provision for the IAS court action taken here, i.e. the retroactive elimination of the freeze upon the late filing of the statements. Matter of Cardona v. DHCR, 214 AD2d 393 [1995], 625 NYS2d 32.

¶ 7. Bauer v. New York State Division of Housing and Community Renewal, 640 N.Y.S.2d 492 (App.Div. 1st Dept. 1996). Since the landlord failed to register the regulated apartment initially in 1984 or prior to the Rent Administrator's order and failed to serve a copy of the registration on the tenant, or provide a rent history for the apartment dating back to the base date, the agency properly barred collection of rent increases in excess of the lawful rent. The agency was then permitted to use its settled procedures to establish the rent. Moreover, since the landlord failed to prove by a preponderance of evidence that the overcharges were not willful, the agency properly imposed treble damages against the landlord.

¶ 8. A landlord added space to an apartment by incorporating and removing a closet of an adjoining apartment. The landlord then took the position that this was a newly created apartment, and charged the tenant a "first rent." Although the court ultimately held that the work in question did not qualify for "first rent" treatment, it was held that the overcharge was not willful; the landlord had relied in good faith on prior decisions which appeared to support its position. Roker Realty Corp. v. Gross, 163 Misc.2d 766, 624 N.Y.S.2d 736 (App.Term 1st Dept.).

¶ 9. A tenant, who was not represented by an attorney, executed a stipulation under which he waived rights to various defenses, including those based on the landlord's failure to have registrered the apartment. The court held that where the tenant was mistaken as to such a fundamental matter, there were sufficient grounds for vacating the stipulation. The landlord argued that since the New York City Department of Housing Preservation and Development (HPD) had owned and operated the building for a period of time, the rent charged by HPD constituted a lawful rent. The court held, however, that the rent charged in the last registration statement, rather than the rent charged by HPD, was the controlling factor, because HPD was exempt from rent registration. Ashton-Jones Management Co. v. Campbell, N.Y.L.J., May 21, 1997, page 30, col. 3 (Civ.Ct. New York Co.).

¶ 10. In the First Department, it has been held that where an apartment had been rent controlled and the landlord never registered the first rent charged to the first rent stabilized tenant, the legal rent is still the rent controlled rent and any charges in excess of that amount is an overcharge (Smitten v. 56 MacDougal St. Co., 167 A.D.2d 205 [App.Div. 1st Dept.]). Originally, in Verveniotis v. Cacioppo, 164 Misc.2d 334, the Appellate Term for the 2d & 11th Judicial Districts agreed with the First Department on that point. However, in Murray v. Robinson, N.Y.L.J., July 6, 1999, page 29, col. 1, the Appellate Term for the 2d & 11th Judicial Districts changed its view and held that where the landlord failed to register the first rent stabilized rent, the tenant could not claim as an overcharge the difference between the rent charged and the last rent controlled rent. Thus, the Murray court dismissed the tenant's rent overcharge claim, without prejudice to the commencement of a Fair Market Rent Appeal.

¶ 11. In one case, the landlord filed timely registrations in 1989 and 1991 but did not file until 1994 the registration that should have been filed in 1990. The court held that the late registration would not retroactively validate the prior improper collection of rent increases. In other words, the existence of a timely registration in 1991 did not validate the improper collection of rent in 1990. BN Realty v. State, 254 A.D.2d 7, 677 N.Y.S.2d 791 (1st Dept. 1998), leave to appeal denied, 93 N.Y.2d 806, 691 N.Y.S.2d 1 (1999).

¶ 12. In one case, an apartment which was previously under rent control came under rent stabilization for the first time. The court held that where the landlord failed to file a registration statement, the landlord was therefore barred from collecting any rent in excess of the last legal regulated rent, which in this case was the previous rent controlled rent. The landlord's subsequent filing of an initial registration form had only prospective application. The landlord sought to charge an initial stabilized rent of $2,200 and then argued that since the rent was in excess of the $2,000 threshold for high rent deregulation (see Admin. Code. § 26-504.2), it was not required to file a rent registration. The court, however, held that even though the landlord sought high rent deregulation, the landlord still had to file a rent registration. The rationale was that the unit qualified for deregulation only if DHCR ultimately determined that the initial legal regulated rent was $2,000 or more. In other words, the tenant had the right to challenge the $2,200 rent as being in excess of the Fair Market Rent. 101 West 70th Street Assocs. v. DeDoiza, N.Y.L.J., Dec. 24, 1998, page 30, col. 2 (App.Term 1st Dept.).

¶ 13. Where a landlord failed to register the premises for the period of 1986 through 1988, the landlord could not lawfully collect rent in excess of the registered 1985 rent (last preceding registration statement), and the sanction is eliminated only prospectively. Kirschbaum v. Martinez, N.Y.L.J., Aug. 19, 1998, page 22, col. 3 (Civ.Ct. Kings Co.).

¶ 14. Previously, the Appellate Term, Second Department had followed the First Department case of Smitten v. 56 MacDougal St. Co., 167 A.D.2d 205, and said that if no initial registration had been filed for an apartment, the proper rent was the last rent controlled rent (Verveniotis v. Cacioppo, 164 Misc.2d 334. However, in Murray v. Morrison, 181 Misc.2d 209, 695 N.Y.S.2d 255 (App.Term 1st Dept. 1999). Second and Eleventh Judic. Districts, changed its mind and held that if the landlord failed to register the apartment properly after the rent controlled tenant vacated the premises, the legal rent would be set by the DHCR in a fair market rent appeal.

¶ 15. The initial rent registration statement must be served upon the first rent stabilized tenant. It is not necessary for the landlord to serve that statement upon any subsequent tenant. Sherry House Assocs. v. DHCR, 277 A.D.2d 54, 717 N.Y.S.2d 1 (1st Dept. 2000).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-517.1

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-517.1 Fees.

a. The department of finance shall collect from the owner of each housing accommodation registered pursuant to section 26-517 of this law an annual fee in the amount of ten dollars per year for each unit subject to this law, in order to defray costs incurred by the city pursuant to subdivision c of section eight of the emergency tenant protection act of nineteen seventy-four.

b. (1) Pursuant to the provisions of subdivision d of section eight of the emergency tenant protection act of nineteen seventy-four, the failure to pay the fee imposed by the provisions of subdivision a of this section shall constitute a charge due and owing the city. All such fees due and owing the city shall constitute a debt recoverable from the owner and the city may commence an action or proceeding for the recovery of such fees or may file a lien upon the building and lot. If the payment of such fees is not received by the city within sixty days of the date contained in the written notice requesting such payment, the city shall provide a second written notice to the owner setting forth the amount of fees due and owing the city and a demand for payment within thirty days thereof.

(2) If such payment is not made to the city within such time, all unpaid fees shall constitute a lien upon the premises and shall be filed in the office of the city collector as an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this subdivision against any premises shall be enforced against an owner or mortgagee of such premises who acquired in good faith an interest therein subsequent to the period for which the fee was imposed but prior to the creation of any such lien.

(3) A notice pursuant to paragraph one of this subdivision, stating the amount due and the nature of the charge,

shall be mailed by the city collector, within five days after such entry, to the last known address of the owner or agent.

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

(5) Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such lien shall be a tax lien within the meaning of sections 11-319 and 11-401 of this code and may be sold, enforced or foreclosed in the manner provided in chapters three and four of title eleven of this code.

(6) The provisions set forth in this subdivision shall be the sole remedy for the enforcement of this section.

c. The provisions of subdivision a of this section shall be deemed to have been in full force and effect as of April first, nineteen hundred eighty-four.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. b amended chap 116/1997 § 30, eff. June 19, 1997 and applies to pending and subsequent

actions and proceedings.

Subd. b par (2) amended L.L. 36/2001 § 6, eff. June 18, 2001. [See Note]

Subd. c separately added L.L. 26/1986 § 3 and L.L. 66/1986 § 2

DERIVATION

Formerly § YY51-6.0.7 added LL 95/1985 § 1

Sub c added LL 26/1986 § 2

(legislative findings, recoup costs and expenses, LL 26/1986 § 1)

NOTE

Provisions of L.L. 26/1986 amending the old code providing legislative findings.

Section one. Legislative findings. In conjunction with the transfer to the state of New York of responsibility for the administration of rent stabilization, the emergency tenant protection act of nineteen hundred seventy-four was amended to require that the city of New York reimburse the state for its expenses incurred. The city of New York is in turn authorized to require by local law that owners of rent stabilized buildings pay a fee annually to the city so that the city may recoup its costs. By local law number ninety-five for the year nineteen hundred eighty-five, an annual fee of ten dollars for each registered unit was imposed on owners of rent stabilized buildings. However, commencing April first, nineteen hundred eighty-five, the date upon which the transfer of administrative responsibility to State became effective, the city has been obligated to reimburse the State at the annual rate of ten dollars for each registered unit. Local law number ninety-five imposed a fee on a prospective basis only. As a result, the city is foregoing reimbursement of nearly ten million dollars and owners of rent stabilized buildings will be benefitting by having one year of administrative costs borne entirely by the city. It is inequitable that one group of property owners benefit in this fashion at the expense of the taxpayers of the city, and the inequity becomes more pronounced in view of impending reduction in aid to the city from the federal government. For the reasons herein set forth the Council finds that it is appropriate that the imposition of the fee set forth in local ninety-five be made retroactive to April first, nineteen

hundred eighty-four.

ALSO NOTE

Provisions of L.L. 66/1986

Section one. Declaration of legislative findings. On October second, nineteen hundred eighty-six, a judgment was entered by a justice of the New York state supreme court which invalidated local law number twenty-four for the year nineteen hundred eighty-six on the ground that the requirements for notice of public hearing prior to mayoral approval of the measure set forth in former section 38b-1.0 of the administrative code of the city of New York were not met. Since the hearing held in connection with mayoral approval of local law number twenty-six for the year nineteen hundred eighty-six, relating to the fees charged owners of buildings subject to the emergency tenant protection act of nineteen hundred seventy-four and the rent stabilization law of nineteen hundred sixty-nine, was similarly noticed, questions may be raised as to the validity of local law number twenty-six for such year. While the corporation counsel advises that the judgment invalidating local law twenty-four for such year is before the appellate courts, and that, in his view, the mayor properly approved local law number twenty-four for such year and all other local laws which were before the mayor at that time, the council has determined that to exercise utmost caution in order to protect the fiscal health of the city it is prudent at this time to re-enact the provisions of such local law number twenty-six so as to remove any uncertainty that may exist as to its status.

Section 3. To the extent that this local law has application prior to September first, nineteen hundred eighty-six, the amendment to section 26-517.1 of the administrative code of the city of New York shall be deemed an amendment to former section YY51-6.0.7 of such code repealed by chapter nine hundred seven of the laws of nineteen hundred eighty-five.

Section 4. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 5. This local law shall take effect immediately and be retroactive to and deemed in full force and effect as of July eighth, nineteen hundred eighty-six.

ALSO NOTE

Provisions of L.L. 36/2001 § 7:

§ 7. Notwithstanding any provision of section 26-517.1 of the administrative code of the city of New York to the contrary:

(a) The owner of each housing accommodation registered pursuant to section 26-517 of such code who has failed to pay the annual rent stabilization fee imposed by subdivision a of such section 26-517.1 for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight shall not be liable for payment of any interest imposed thereon pursuant to such section provided that such owner shall pay in full any and all unpaid annual fees due and owing for any such year or years within ninety days of a notice demanding payment pursuant to subdivision b of this section, provided, further, that where the commissioner determines that an owner has timely paid the annual fee for each year from nineteen hundred ninety-three to nineteen hundred ninety-eight for which such owner was liable, the annual fee for each year prior to nineteen hundred ninety-three shall be deemed paid;

(b) Where, pursuant to paragraph one of subdivision b of such section 26-517.1, the city, prior to the date of the enactment of this local law, has provided an owner a written notice requesting payment of any unpaid annual fee or fees for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight and any interest thereon

within sixty days from the date of such notice, and such payment has not been received as of the date of the enactment of this local law, the city shall provide a second written notice setting forth the amount of the fee or fees and any interest thereon due and owing and a demand for payment, and such second notice shall demand payment within ninety days thereof;

(c) The commissioner of finance is authorized to promulgate any rules, including rules establishing a method for determining whether any rent stabilization fee imposed by subdivision a of section 26-517.1 of such code for any year or years from nineteen hundred eighty-four to nineteen hundred ninety-eight has been paid, that he or she deems necessary to implement the provisions of this section and to ensure that the determination and collection of any such fee paid or to be paid by an owner is administered in a manner that the commissioner deems to be reasonable.

CASE NOTES

¶ 1. A one-year retroactive fee imposed by Local Law No. 66 of 1986 upon owners of rent-stabilized dwelling to recoup administrative costs the city paid the state for 1984-1985 is not in conflict with the enabling statute permitting such fee. Attempt was made to locate prior owners for those owners purchasing property after October 1, 1984. Further such local law is not void based on 2-year delay in passage since 1983 enabling statute provided for payment of such fee. Wittenberg v. City of New York, 135 AD2d 132, 523 N.Y.S.2d 1003 (1st Dept. 1988).

¶ 2. Rent increases for a rent-stabilized apartment are not authorized unless the owner complies with the rent stabilization law regarding the filing of annual registration statements and paying annual registration fees, §26-516(g), §§26-517, 26-517.1. Owner's noncompliance requires that the rent be rolled back to the legal regulated rent. Tiebout Holding Co. v. Cordero, 154 Misc.2d 37, 583 N.Y.S.2d 350 (Civ.Ct. Bronx Co. 1992), aff'd in part and modified on other grounds, 154 Misc.2d 43, 592 N.Y.S.2d 904 (App.Term 1st Dept. 1992).

¶ 3. Where an owner acquires/purchases a building that had previously been under the control of an administrator appointed pursuant to Article 7A of the Real Property Actions and Proceedings Law (7A administrator), the owner will not be barred from collecting rent increases by reason of the 7A administrator's failure to pay the annual fee for each rent stabilized apartment in the building. Rodriguez v. Flores, 154 Misc.2d 160, 584 N.Y.S.2d 269 (Civ.Ct. New York Co. 1992).

¶ 4. D.B.L. Realty Corp. v. Zavala, 637 N.Y.S.2d 612 (App.Term 1st Dept. 1995). The rent charged to the tenant was consistent with the rent listed in registration statements which properly filed during the tenant's occupancy, but the landlord had failed to file an initial rent registration when the prior (first) stabilized tenant entered into possession of the apartment years earlier. The court held that where the rent charged to the tenant, and paid by the tenant, was lawful except for the failure to register the premises at the earlier stage, the tenant could not recover a rent overcharge award or treble damages.

¶ 5. Verveniotis v. Cacioppo, 164 Misc.2d 334, 627 N.Y.S.2d 509 (App.Term 2nd & 11th Judic. Dists. 1995). Where the rent charged the tenant was lawful except for the failure of the landlord to file the registration statement, the landlord could not maintain an action against a tenant to recover unpaid rent in excess of the legal regulated rent prior to the time of registration but would be able to retain rent already paid by the tenant.

¶ 6. Zas v. Bricard, New York Law Journal 2-28-96, page 29, col. 5 (Civ.Ct. Kings Co.). Unlike the rent overcharge statute, Section 26-517.1 does not contain the four year statute of limitations. Hence, in determining the extent to which the landlord's failure to pay the required $10 fee precludes the owner from collecting rent increases, the court can look back more than four years.

¶ 7. The New York State Division of Housing and Community Renewal has issued Policy Statement 92-1, which says that the statutory sanction for non-payment of the fee will not be imposed until 60 days after the agency sends the owner a notice of non-payment accompanied by a copy of the bill, and the owner still fails to pay. There is a split of authority as to whether the statutory penalty will be imposed upon an owner who failed to pay the fee but never

received the notice of non-payment. In Moreira v. Halperin, N.Y.L.J., Aug. 16, 1995, page 22, col. 5 (Sup. Ct. New York Co.), the court held that the policy statement was at variance with the statute and was therefore unenforceable. In Lombardo v. Santevecchi, N.Y.L.J., Nov. 20, 1996, page 33, col. 4 (Civ. Ct. Kings Co.), the court also held that the statute called for the penalty regardless of the question of receipt of a notice of non-payment. However, in 224 Eighth Ave. Corp. v. Palacios, N.Y.L.J., Sept. 25, 1996, page 22, col. 3 (Civ. Ct. New York Co.), the court held that the penalty would not apply where the landlord never received a notice of non-payment from the state agency.

¶ 8. Until the Rent Regulation Reform Act of 1997 ("RRRA"), the statute provided that the failure to pay the required fee would bar the landlord from collecting rent increases. However, the RRRA amended the statute to provide that the fee would constitute a charge which the City could collect but that the failure to pay the fee would not affect the landlord's right to rent increases. Djuko Realty, Inc. v. Roman, N.Y.L.J., Aug. 20, 1997, at 23, col. 5 (Civ.Ct. Kings Co.).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-518

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-518 Hotel industry stabilization association.

a. The hotel industry stabilization association registered with the department of housing preservation and development is hereby divested of all its powers and authority under this law. The stabilization code heretofore promulgated by such association, as approved by the department of housing preservation and development, is hereby continued to the extent that it is not inconsistent with law. Such code may be amended from time to time provided, however, that no such amendments shall be promulgated except by action of the commissioner of the division of housing and community renewal and provided further, that prior to the adoption of any such amendments, the commissioner shall (i) submit the proposed amendments to the commissioner of the department of housing preservation and development and allow such commissioner thirty days to make comments or recommendations on the proposed amendments, (ii) review the comments or recommendations, if any, made pursuant to clause (i) of this subdivision and make any revisions to the proposed amendments which the commissioner of the division of housing and community renewal deems appropriate provided that any such review and revision shall be completed within thirty days of receipt of such comments or recommendations and (iii) thereafter hold a public hearing on the proposed amendments. No provision of such code shall impair or diminish any right or remedy granted to any party by this law or any other provision of law.

b. A code shall not be approved hereunder unless it appears to the commissioner of the division of housing and community renewal that it provides for a cash refund or a credit to be applied against future rent, in the amount of the excess, if any, of rent paid since January first, nineteen hundred sixty-nine, over the permissible fair increase, and that it gives a hotel tenant the right to request a six month lease at the permissible rent rate within thirty days of the approval of such code, or, if his or her tenancy commences after such thirty day period, within thirty days of the commencement

of his or her tenancy, and that is in compliance with the standards set forth in subdivision c of section 26-511 to the extent such standards are applicable to the hotel industry, and that it provides specifically that no owner shall refuse to extend or renew a tenancy for the purpose of preventing a hotel tenant from becoming a permanent tenant.

c. Each landlord who is made subject to this law pursuant to section 26-505 or 26-506 of this code shall furnish to each permanent tenant signing a new or renewal lease, a rider describing the rights and duties of owners and tenants as provided under the rent stabilization law of nineteen hundred sixty-nine. Such rider shall be in a form promulgated by the commissioner and shall conform to the intent of section 5-702 of the general obligations law and shall be in a print size larger than the print size of the lease to which the rider is attached.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-6.1 added LL 51/1969 § 9

Sub d added LL 43/1981 § 1

Amended chap 888/1985 § 8

(special provision, amendement of rent code, chap 888/1985 § 9)

(see expiration, chap 888/1985 § 11)

CASE NOTES FROM FORMER SECTION

¶ 1. § YY51-6.1 provides for establishment of a hotel industry stabilization association and code. Par. (c) requires that any such code comply with YY51-6.0(c). YY51-6.0(c) was amended by L. 1983, ch. 555, § 6 which deleted provisions authorizing certain grounds for the owner to recover possession of the premises for himself. Those similar provisions must also be repealed from the METHISA code.-Brewster v. Gavins, 189 (65) N.Y.L.J. (4-5-83) 10, Col. 4 B.

CASE NOTES

¶ 1. The State Division of Housing and Community Renewal has authority pursuant to § 26-518(c) to force compliance with provisions of rent stabilization code § 2522.5(c)(2) requiring a hotel owner to notify occupants of their right to become permanent tenants at legal regulated rent by requesting lease for a term of at least six months. 459 W. 43rd St. Corp. v. DHCR, 152 AD2d 511 [1990].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-519

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-519 Suspension of registration.

The department of housing preservation and development may, after notice and opportunity for hearing, suspend the registration of an association if it finds that the articles, code, rules or other conduct thereof do not conform to the requirements of this law and any such suspension shall remain in effect until such administration issues an order determining that such articles, rules, code or other conduct have been modified to conform with such requirements. For the purposes of this law, the members in good standing of the association shall be deemed to be members in good standing of an association registered with the department of housing preservation and development during and only during, the first sixty days of such period of suspension.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YY51-6.2 added LL 51/1969 § 10

(formerly sub d of § YY51-6.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-520

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 4 RENT STABILIZATION

§ 26-520 Expiration date.

This chapter shall expire on April first, two thousand nine unless rent control shall sooner terminate as provided in subdivision three of section one of the local emergency housing rent control law.

HISTORICAL NOTE

Section amended L.L. 3/2006 § 2, eff. Mar. 29, 2006.

Section amended L.L. 21/2003 § 2, eff. Mar. 26, 2003.

Section amended L.L. 12/2000 § 4, eff. Mar. 28, 2000.

Section amended L.L. 13/1997 § 5, eff. Mar. 31, 1997.

Section amended L.L. 4/1994 § 7, eff. Mar. 30, 1994.

Section added chap 907/1985 § 1

Section amended L.L. 20/1991 § 2 eff. Apr. 1, 1991

Section amended L.L. 18/1988 § 2

DERIVATION

Formerly § YY51-8.0 added LL 8/1979 § 2

Amended LL 18/1982 § 2

Amended LL 24/1985 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-521

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-521 Unlawful eviction.

a. It shall be unlawful for any person to evict or attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer or who has entered into a lease with respect to such dwelling unit or has made a request for a lease for such dwelling unit pursuant to the hotel stabilization provisions of the rent stabilization law except to the extent permitted by law pursuant to a warrant of eviction or other order of a court of competent jurisdiction or a governmental vacate order by:

(1) using or threatening the use of force to induce the occupant to vacate the dwelling unit; or

(2) engaging in a course of conduct which interferes with or is intended to interfere with or disturb the comfort, repose, peace or quiet of such occupant in the use or occupancy of the dwelling unit, to induce the occupant to vacate the dwelling unit including, but not limited to, the interruption or discontinuance of essential services; or

(3) engaging or threatening to engage in any other conduct which prevents or is intended to prevent such occupant from the lawful occupancy of such dwelling unit or to induce the occupant to vacate the dwelling unit including, but not limited to, removing the occupant's possessions from the dwelling unit, removing the door at the entrance to the dwelling unit; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

b. It shall be unlawful for an owner of a dwelling unit to fail to take all reasonable and necessary action to restore to occupancy an occupant of a dwelling unit who either vacates, has been removed from or is otherwise prevented from occupying a dwelling unit as the result of any of the acts or omissions prescribed in subdivision a of this

section and to provide to such occupant a dwelling unit within such dwelling suitable for occupancy, after being requested to do so by such occupant or the representative of such occupant, if such owner either committed such unlawful acts or omissions or knew or had reason to know of such unlawful acts or omissions, or if such acts or omissions occurred within seven days prior to such request.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.01 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Amended LL 4/1985 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Tenant had been "constructively" evicted from her apartment and was entitled to move out of "uninhabitable" apartment and move into another apartment in the same complex without the landlord's consent until original apartment was repaired.-DWH Realty v. Ward, 190 (111) N.Y.L.J. (12-12-83) 20, Col. 5M.

CASE NOTES

¶ 1. Complainant was forced to vacate his residence after only 10 days. He previously resided in another of defendants buildings for over 30 days before being forced to move. NYC unlawful eviction law, § 26-521, was adopted to deter landlords from using harassment like lock-outs to evict tenants. The law has twice been amended to increase its scope. Both evictions violate this section and are criminal. People v. 850 West End Ave. Corp., 138 Misc. 2d 998 [1988].

¶ 2. City is not barred from taking action pursuant to the Unlawful Eviction Law (§§ 26-521-26-529) on same grounds as a case already settled with state agency. Harassment of tenants and withholding of services to get tenants to vacate their units are charged. Action is not preempted by the Omnibus Housing Act (Chap. 403/1983). UEL continues as a tool to meet special housing needs. City v. Park South Assoc., 139 Misc. 2d 997 [1988].

¶ 3. Barclay v. Natoli, New York Law Journal, 2-28-96, page 29, col. 6 (Civ.Ct. Kings Co.). A janitor or caretaker whose employment has terminated cannot be evicted without legal process and is protected by the unlawful eviction statute. The court rejected the landlord's claim that the former janitor had become a mere licensee who could be evicted by means of self-help.

¶ 4. A husband complained that his estranged wife locked him out of the apartment they shared, in violation of Admin. Code. Sec. 26-521. It was held that the proper forum for the resolution of the dispute was Family Court, not the Housing Court. The rationale is that since the marital relationship has not been terminated or otherwise modified by court order, a summary proceeding could not have been used by the wife to evict the husband, Thus, the husband cannot use Sec. 26-521 to obtain restoration to possession. The court noted that this was essentially a domestic dispute which concerned the health and safety of the couple's children (the wife alleged that the husband had bragged to their children that he was a gang member), and that the Family Court was equipped to handle this type of case. Billips v. Billips, 189 Misc.2d 144, 729 N.Y.S.2d 874 (Civ.Ct. New York Co. 2001).

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-522

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-522 Definitions.

a. For the purpose of this chapter the following terms shall have the following meanings:

(1) "Dwelling unit" means a dwelling unit as such term is defined in subdivision thirteen of section 27-2004 of the housing maintenance code.

(2) "Owner" means an owner as defined in section 27-2004 of the housing maintenance code.

b. For the purposes of this chapter a "person" shall not include a government employee acting within the scope of employment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.02 added LL 56/1982 § 2

Amended LL 40/1984 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-523

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-523 Criminal and civil penalties.

a. Any person who intentionally violates or assists in the violation of any of the provisions of this chapter shall be guilty of a class A misdemeanor. Each such violation shall be a separate and distinct offense.

b. Such person shall also be subject to a civil penalty of not less than one thousand nor more than ten thousand dollars for each violation. Each such violation shall be a separate and distinct offense. In the case of a failure to take all reasonable and necessary action to restore an occupant pursuant to subdivision b of section 26-521 of this chapter, such person shall be subject to an additional civil penalty of not more than one hundred dollars per day from the date on which restoration to occupancy is requested until the date on which restoration occurs, provided, however, that such period shall not exceed six months.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.03 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-524

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-524 Enforcement actions or proceedings.

The civil penalties prescribed by this chapter shall be recovered by an action or proceeding in any court of competent jurisdiction. All such actions or proceedings shall be brought in the name of the city by the corporation counsel. In addition, the corporation counsel may institute any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this chapter, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this chapter, mandating compliance with the provisions of this chapter or for such other relief as may be appropriate. In any such action or proceeding the city may apply to any court of competent jurisdiction, or to a judge or justice thereof, for a temporary restraining order or preliminary injunction enjoining and restraining all persons from violating any provision of this chapter, mandating compliance with the provisions of this chapter, or for such other relief as may be appropriate, until the hearing and determination of such action or proceeding and the entry of final judgment or order therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition to the granting or issuing of such order, or by reason thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.04 added LL 56/1982 § 2

Amended LL 40/1984 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 26-525

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-525 Lien.

Every civil penalty imposed by judgment upon an owner pursuant to this chapter shall be a lien upon the dwelling with respect to which such civil penalty is imposed from the time of the filing of a notice of pendency in the office of the clerk of the county in which such dwelling is situated.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.05 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-526

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-526 Notice of pendency.

a. In any action or proceeding instituted under this chapter, the corporation counsel may file in the county clerk's office of the county where the dwelling affected by such action or proceeding is situated, a notice of the pendency of such action or proceeding. Such notice may be filed at the time of the commencement of the action or proceeding, or at any time afterwards, before final judgment or order. The corporation counsel shall designate in writing the name of each person against whom the notice is filed and the number of each block on the land map of the county which is affected by the notice. The county clerk in whose office the notice of pendency is filed shall record and index such notice against the names and blocks designated.

b. Any such notice may be vacated upon the order of a judge of the court in which such action or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel. The clerk of the county where such notice is filed shall cancel such notice upon receipt of such consent or of a certified copy of such order.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.06 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-527

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-527 Liability for costs.

Neither the city nor any officer or employee thereof shall be liable for costs in any action or proceeding brought pursuant to this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.07 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-528

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-528 Monies recovered.

All monies recovered under this chapter shall be paid into the general fund of the city.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.08 added LL 56/1982 § 2

Amended LL 40/1984 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-529

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 5 UNLAWFUL EVICTION

§ 26-529 Remedies and penalties.

The remedies and penalties provided for herein shall be in addition to any other remedies and penalties provided under other provisions of law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § D16-1.09 added LL 56/1982 § 2

Amended LL 40/1984 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-530

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 6 INCREASE OF RENTALS

§ 26-530 Increase of rentals.

a. Before acting upon any application or motion for an increase in the maximum rental per room to be charged tenants and cooperators of dwellings where the department of housing preservation and development is the "supervising agency" under the provisions of the private housing finance law, a public hearing shall be held. Said hearing shall be held upon no less than twenty days' written notice to the tenants and said notice shall have annexed thereto a copy of the application or motion for increase in rentals and shall set forth the facts upon which the application or motion is based.

b. No application or motion for an increase in the maximum rental per room shall be entertained or acted upon hereunder for a period of two years from the date or any previous order of the "supervising agency" for the increase of maximum rent affecting the same dwelling.

c. No increase in maximum rental per room or surcharge thereto or any other penalty shall be charged to or assessed against any tenant or tenant-cooperator of dwellings, where the department of housing preservation and development is the "supervising agency", for failure to authorize the commissioner of finance to verify to such "supervising agency" the amount of income as it appears on their New York state or New York city income tax returns.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § B61.0 added LL 1/1969 § 2

Amended LL 13/1973 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where public hearing held pursuant to this section was primarily informational and not judicial tenant-shareholders of a mutual housing company organized under the Private Housing Law were not entitled to a preliminary injunction restraining enforcement of increased carrying charges ordered by the city Housing and Development Administration.-Matter of Messner v. Housing and Development Administration, 78 Misc. 2d 381, 356 N.Y.S. 2d 155 [1974].

¶ 2. The Housing and Development Administration would not be required to hold a full evidentiary hearing prior to the implementation of the second stage of a rent increase in a Mitchell-Lama house since this section applies only to rent increases and not to a requested reduction in rent and such hearing was "informational to assist H.D.A. in developing a sound fiscal structure for the housing company it supervises" and did not "purport to be a judicial type hearing in connection with a rent increase".-Matter of Davis v. Starr, 88 Misc. 2d 210 [1976].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-601

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-601 Definitions.

As used in this section. a. "Commissioner" means the commissioner of housing and community renewal of the state of New York.

b. "Dwelling unit" means that part of a dwelling in which an eligible head of the household resides and which is subject to the provisions of either article II, IV, V, or XI of the private housing finance law, or that part of a dwelling which was or continues to be subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, in which an eligible head of the household resides.

c. "Eligibility date" means the later of (1) January first, nineteen hundred seventy-five, or (2) the last day of the month in which a person became an eligible head of a household in the dwelling unit in which such person resides at the time of filing the most recent application for benefits hereunder, or in the case of a dwelling subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, "eligibility date" means the later of (1) July first, nineteen hundred seventy-seven, or (2) the last day of the month in which a person became an eligible head of a household in the dwelling unit in which such person resides at the time of filing the most recent application for benefits hereunder.

d. "Eligible head of the household" means a person or his or her spouse who is sixty-two years of age or older or who qualifies as a person with a disability pursuant to section 26-617 of this chapter and is entitled to the possession or to the use and occupancy of a dwelling unit, provided, however, that with respect to a dwelling which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national

housing act, as amended, "eligible head of the household" shall be limited to that person or his or her spouse who was entitled to possession or the use and occupancy of such dwelling unit at the time of termination of such mortgage, and whose income when combined with the income of all other members of the household whose head of household is sixty-two years of age or older does not exceed twenty-five thousand dollars beginning July first, two thousand five, twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, and twenty-nine thousand dollars beginning July first, two thousand nine, for the taxable period, or whose income for the current income tax year when combined with the income of all members of the household residing in the housing accommodation whose head of the household is a person with a disability does not exceed the maximum income above which such head of the household would not be eligible to receive cash supplemental security income benefits under federal law during such tax year.

e. "Housing company" means any limited-profit housing company, limited dividend housing company, redevelopment company or housing development fund company incorporated pursuant to the private housing finance law and operated exclusively for the benefit of persons or families of low income, or any corporate owner of a dwelling which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended.

f. "Income" means income received by the eligible head of the household combined with the income of all other members of the household from all sources after deduction of all income and social security taxes and includes without limitation, social security and retirement benefits, supplemental security income and additional state payments, public assistance benefits, interest, dividends, net rental income, salary and earnings, and net income from self-employment, but shall not include gifts or inheritances, payments made to individuals because of their status as victims of Nazi persecution, as defined in P.L. 103-286, or increases in benefits accorded pursuant to the social security act or a public or private pension paid to any member of the household which increase, in any given year, does not exceed the consumer price index (all items United States city average) for such year which take effect after the eligibility date of an eligible head of the household receiving benefits hereunder, whether received by the eligible head of the household or any other member of the household. When the eligible head of a household has retired on or after the commencement of the taxable period and prior to the date of making an application for a rent increase exemption order/tax abatement certificate pursuant to this chapter, such person's income shall be adjusted by excluding salary or earnings and projecting such person's retirement income over the entire taxable period.

g. "Income tax year" means a twelve month period for which the head of the household filed a federal personal income tax return, or if no such return is filed, the calendar year.

h. "Increase in maximum rent" means any increase in the maximum rent for the dwelling unit becoming effective on or after the eligibility date, including capital assessments and voluntary capital contributions but excluding any increase in maximum rent attributable to gas or electrical utility charges or an increase in dwelling space, services or equipment, provided, however, that with respect to any dwelling unit in a dwelling which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, "increase in maximum rent" shall not include any increase in maximum rent attributable to capital assessments or voluntary capital contributions.

i. "Maximum rent" means the maximum rent, excluding gas and electric utility charges, which has been authorized or approved by the commissioner or the supervising agency or the legal regulated rent established for the dwelling unit pursuant to the provisions of either article II, IV, V or XI of the private housing finance law, or the rental established for a cooperatively owned dwelling unit previously regulated pursuant to the provisions of article II, IV, V or XI of the private housing finance law, or the rental established for a dwelling unit, in a dwelling subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended or such rent established for a dwelling unit which was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended.

j. "Members of the household" means the head of the household and any person, permanently residing in the dwelling unit.

k. "Supervising agency" means the department of housing preservation and development.

l. "Taxable period" means the income tax year immediately preceding the date of making application for a rent increase exemption order/tax abatement certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 26/1991 § 1, eff. July 19, 1991 deemed in effect Jan. 1, 1991

Subd. d separately amended L.L. 75/2005 § 4, eff. Aug. 11, 2005 and L.L. 76/2005 § 20, eff. Oct. 10, 2005.

Subd. d amended L.L. 67/2003 § 4, eff. Nov. 13, 2003 and retroactive to Sept. 1, 2003. [See § 26-405 Note 2]

Subd. d amended L.L. 1/1996 § 4, eff. Jan. 12, 1996 and retroactive to Aug. 2, 1995

Subd. d amended L.L. 96/1992 § 4, eff. June 23, 1992.

Subd. d amended L.L. 67/1988 § 1

Subd. d amended L.L. 52/1986 § 1

Subd. h amended chap 584/1987 § 9

Subd. h amended chap 737/1986 § 6

Subd. f amended L.L. 94/2005 § 3, eff. Nov. 15, 2005.

DERIVATION

Formerly § YYY51-1.0 added LL 40/1976 § 1

Subs h, i amended chap 385/1977 § 2

Subs b, c, e, f, i amended LL 62/1977 § 3

Sub d amended LL 61/1980 § 1

(special provision LL 61/1980 § 6)

Sub d amended LL 68/1982 § 1

(special provision LL 68/1982 § 6)

Sub d amended LL 63/1985 § 1

(special provision LL 63/1985 § 6)

Sub d amended LL 98/1985 § 7

Sub f amended LL 98/1985 § 8

Sub h amended chap 737/1986 § 5

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-602

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-602 Real property tax exemption.

Real property of a housing company shall be exempt from real property taxes, in an amount equal to the rent increase exemptions actually credited to eligible heads of households pursuant to this chapter. Any such exemption shall be in addition to any other exemption or abatement of taxes authorized by law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-2.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-603

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-603 Reimbursement for rent exemptions; rent increase exemption fund established.

In the event that the real property of a housing company containing one or more dwelling units shall be totally exempt from local and municipal real property taxes for any fiscal year as a result of the exemptions from maximum rent credited pursuant to this section or otherwise, the supervising agency may make or contract to make payments to a housing company in an amount not exceeding the amount necessary to reimburse the housing company for the total dollar amount of all exemptions from the payment of maximum rent accorded pursuant to this chapter to eligible heads of the household residing in dwelling units in such real property. A fund to be known as the rent increase exemption fund shall be created and established in order to provide for the payments made pursuant to this section. There may be paid into such fund (1) all of the rental surcharges collected from the housing companies organized and existing pursuant to articles II, IV, V and XI of the private housing finance law and (2) any moneys appropriated or otherwise made available for the purpose of such fund.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-3.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-604

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-604 Rent increase exemption funding requirement.

In the event that the real property of a housing company containing one or more dwelling units shall be totally exempt from local and municipal real property taxes as a result of the exemption from maximum rent credited pursuant to this chapter or otherwise, the supervising agency shall not issue any rent increase exemption order/tax abatement certificates unless there are monies in the rent increase exemption fund to provide reimbursement to the housing company for the total dollar amount of all exemptions from the payment of maximum rent accorded pursuant to this chapter to eligible heads of the household residing in dwelling units in such real property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-4.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-605

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-605 Rent increase exemption orders/tax abatement certificates.

(a) Subject to the provisions of this chapter an eligible head of the household may obtain a rent increase exemption order/tax abatement certificate entitling him or her to an exemption from increases in the maximum rent otherwise payable in one of the following amounts:

(1) where the eligible head of the household does not receive a monthly allowance pursuant to the social services law, the amount by which increases in the maximum rent subsequent to such persons' eligibility date have resulted in the maximum rent exceeding one-third of the combined income of all members of the household for the taxable period, except that in no event shall a rent increase exemption order/tax abatement certificate become effective prior to January first, nineteen hundred seventy-six; or

(2) where the eligible head of the household receives a monthly allowance for shelter pursuant to the social services law, an amount not exceeding that portion of any increase in maximum rent subsequent to such person's eligibility date which is not covered by the maximum allowance for shelter which such person is entitled to receive pursuant to the social services law.

(b) Notwithstanding any other provision of law, when a head of a household to whom the then current, valid tax abatement certificate has been issued under this chapter, chapter three or chapter four of this title moves his principal residence to a subsequent dwelling unit subject to this chapter, or which is or was subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, the head of the household may apply to the supervising agency, subject to the terms and conditions imposed

by this chapter, for a tax abatement certificate relating to the subsequent dwelling unit, and such certificate may provide that the head of the household shall be exempt from paying that portion of the maximum rent for the subsequent dwelling unit which is the least of the following:

(1) the amount by which the rent for the subsequent dwelling unit exceeds the last rent, as reduced, which the head of the household was required to actually pay in the original dwelling unit;

(2) the last amount deducted from the maximum rent or legal regulated rent meaning the most recent monthly deduction for the applicant in the original dwelling unit pursuant to this section, section 26-406 or section 26-409 of this title; or

(3) where the eligible head of the household does not receive a monthly allowance pursuant to the social services law, the amount by which the maximum rent of the subsequent dwelling unit exceeds one-third of the combined income of all members of the household.

Such certificate shall be effective as of the first day of the month in which the tenant applied for such exemption or as of the date the tenant took occupancy of the subsequent dwelling unit, whichever is later, provided both occur after the effective date of this law.

(c) Notwithstanding any other provision of law and to the extent applicable to the provisions of this chapter, any renewal application being made by the tenant pursuant to this section, any rent increase order then in effect with respect to such tenant shall be deemed renewed until such time as the department of housing preservation and development shall have found such tenant to be either eligible or ineligible for a rent increase exemption order but in no event for more than six additional months. If such tenant is found eligible, the order shall be deemed to have taken effect upon expiration of the exemption. In the event that any such tenant shall, subsequent to any such automatic renewal, not be granted a rent increase exemption order, such tenant shall be liable to his or her landlord for the difference between the amounts he or she has paid under the provisions of the automatically renewed order and the amounts which he or she would have been required to pay in the absence of such order. Any rent increase exemption order issued pursuant to this chapter shall include provisions giving notice as to the contents of this section relating to automatic renewals of rent exemption orders.

(d) notwithstanding any other provision of law to the contrary, where an eligible head of the household holds a current, valid rent increase exemption order/tax abatement certificate and, after the effective date of this subdivision, there is a permanent decrease in income in an amount which exceeds twenty percent of such income as represented in such eligible head of household's last approved application for a rent increase exemption order/tax abatement certificate or for renewal thereof, such eligible head of the household may apply for a redetermination of the amount set forth therein. Upon application, such amount shall be redetermined so as to reestablish the ratio of adjusted rent to income which existed at the time of approval of such eligible head of the household's last application for a rent increase exemption order/tax abatement certificate or for renewal thereof; provided, however, that in no event shall the amount of the adjusted rent be redetermined to be (i) in the case of an eligible head of the household who does not receive a monthly allowance for shelter pursuant to the social services law, less than one-third of income; or (ii) in the case of an eligible head of the household who receives a monthly allowance for shelter pursuant to the social services law, less than the maximum allowance for shelter which such eligible head of the household is entitled to receive pursuant to law. For purposes of this subdivision, a decrease in income shall not include any decrease in income resulting from the manner in which income is calculated pursuant to any amendment to paragraph f of subdivision one of section four hundred sixty-seven-c of the real property tax law or an amendment to subdivision f of section 26-601 of this code made on or after April first, nineteen hundred eighty-seven. For purposes of this subdivision, "adjusted rent" shall mean maximum rent less the amount set forth in a rent increase exemption order/tax abatement certificate.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) amended L.L. 26/1991 § 2 eff. July 19, 1991 deemed in effect Jan. 1, 1991

Subd. (d) amended L.L. 56/2003 § 3, eff. Sept. 4, 2003 and applying to applications for redetermination filed on and after March 23, 2003.

Subd. (d) added chap 584/1987 § 10

DERIVATION

Formerly § YYY51-5.0 added LL 40/1976 § 1

Amended LL 62/1977 § 4

Undesignated par added chap 133/1978 § 3

Amended LL 98/1985 § 9

(special provision LL 98/1985 § 10)

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-605.1

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-605.1 Effect of reclassification of dwelling units.

Notwithstanding the provisions of this chapter, chapter three or chapter four of this title, when a dwelling unit subject to this chapter is later reclassified by order of the commissioner, the supervising agency or by any other governmental agency supervising such dwelling unit, or by operation of law to a dwelling unit subject to any of the provisions of article II, IV, V or XI of the private housing finance law, regulation under chapter four of this title or the emergency tenant protection act of nineteen seventy-four, or when a dwelling unit subject to regulation under such act, chapter four or chapter three of this title is reclassified by order of the commissioner or the supervising agency or by operation of law to a dwelling unit subject to the provisions of article II, IV, V or XI of the private housing finance law or subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, a head of the household who held or holds a valid rent increase exemption order/tax abatement certificate at the time of the reclassification shall be issued a rent increase exemption order under this chapter or chapter four of this title, as applicable, continuing the previous exemption notwithstanding the reclassification of the dwelling unit.

HISTORICAL NOTE

Section added chap 17/1987 § 4. [See Note.]

NOTE

Ch. 17/1987 effective date:

§ 5. This act shall take effect immediately, provided however that it shall be retroactive to and shall be deemed to have been in full force and effect as of December first, nineteen hundred eighty-three as to any person who on or after December first, nineteen hundred eighty-three would have been eligible for a senior citizen rent increase exemption order pursuant to section four hundred sixty-seven-c of the real property tax law and title YYY of chapter fifty-one of the administrative code of the city of New York or chapter seven of title twenty-six of such code, as recodified by chapter nine hundred seven of the laws of nineteen hundred eighty-five, but for the fact that such person resided in a dwelling unit subject to the provisions of article II, IV, V or XI of the private housing finance law or subject to a mortgage insured or initially insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, which had been relassified prior to the enactment of this act to a dwelling unit subject to any of the provisions of article II, IV, V or XI of the private housing finance law, the rent stabilization law of nineteen hundred sixty-nine of the city of New York or the emergency tenant protection act of nineteen seventy-four. The amendment to section 26-509 of the rent stabilization law of nineteen hundred sixty-nine made by section three of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided under section 26-520 of such law.

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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NYC Administrative Code 26-606

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-606 Applications for exemption orders/tax abatement certificates; issuance and copies.

The eligible head of the household shall apply annually to the supervising agency for a rent increase exemption order/tax abatement certificate on a form to be prescribed and made available by the supervising agency. The supervising agency shall approve or disapprove applications and, if it approves, shall issue a rent increase exemption order/tax abatement certificate. Copies of such order/certificate shall be issued to the housing company managing the dwelling unit of the eligible head of the household, to the eligible head of the household and to the department of finance.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-6.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-607

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-607 Effective dates of exemption orders/tax abatement certificates.

The effective date of a rent increase exemption order/tax abatement certificate shall be the date of the first increase in maximum rent becoming effective after the applicant's eligibility date, except that in no event shall a rent increase exemption order/tax abatement certificate become effective prior to January first, nineteen hundred seventy-six.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-7.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-608

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-608 Credit allowances; penalties for overcharge.

Upon receipt of a copy of a rent increase exemption order/tax abatement certificate, the housing company managing the dwelling unit of the eligible head of the household shall promptly accord to the eligible head of the household covered by such order/certificate the appropriate credit against the monthly maximum rent then and thereafter payable. To the extent the full amount of such credit has not been accorded for any past period since the effective date specified in the order/certificate, the housing company shall credit the total aggregate amount not so credited to the monthly maximum rent next payable or to such subsequent monthly maximum rents, as the supervising agency may authorize. It shall be illegal to collect any amount for which a rent increase exemption order/tax abatement certificate provides credit or to withhold credit for any such amounts already collected, and collection or retention of any such amount for a dwelling unit occupied by such eligible head of the household shall be deemed a rent overcharge, and upon conviction therefor the housing company and its directors and any employee responsible therefor shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars or imprisonment not to exceed six months, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-8.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-609

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-609 Application for tax benefit; credits.

In order to obtain the tax benefits to which it is entitled under this chapter, a housing company must file with the department of finance a sworn application, in such form as such officer may prescribe, for any period in which the housing company has accorded an eligible head of the household an exemption hereunder from the payment of the maximum rent. Subject to prior or subsequent verification thereof, the department of finance shall credit the total amount of such exemptions actually accorded to occupants of dwelling units contained in the property against the real property taxes next payable with respect to the property, on a prospective basis only. The housing company shall attach to such application copies of all rent increase exemption orders/tax abatement certificates issued to eligible heads of the household residing in dwelling units in such real property.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-9.0 added LL 40/1976 § 1

Amended LL 29/1982 § 11

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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NYC Administrative Code 26-610

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-610 Excessive exemption; liens.

If a subsequent audit of taxes payable and exemptions recognized pursuant to this chapter discloses that an exemption previously recognized on the basis of a housing company's verified application is excessive, the amount of tax payable by reason of such disclosure and the statutory penalty thereon, shall be a lien upon the property as of the due date of the tax for which the excessive exemption was claimed, unless after the housing company has filed the tax exemption claims, the supervising agency issues a corrected rent increase exemption order/tax abatement certificate retroactively modifying or revoking the rent increase exemption order/tax abatement certificate based on error in the personal or financial data in the application or based on error in the rent calculation not due to any willful fault of the housing company, in which case the amount of tax payable by reason of the disclosure shall be a lien upon the property as of the date for payment of taxes next following certification of such corrected order by the supervising agency.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-10.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-611

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-611 Rules and regulations.

The supervising agency may promulgate such rules and regulations as may be necessary to effectively carry out the provisions of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-11.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-612

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-612 Violations; penalties.

It shall be illegal, for any person submitting an application for a rent increase exemption pursuant to this section, to make any false statement or willful misrepresentation of fact, and upon conviction thereof such applicant shall be guilty of a misdemeanor, punishable by a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days, or both.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-12.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-613

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-613 Application.

This chapter is enacted pursuant to the provisions of section four hundred sixty-seven-c of the real property tax law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-13.0 added LL 40/1976 § 1

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-614

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-614 Certain exemption orders.

Notwithstanding the provisions of this chapter, a tenant who resides in a dwelling unit which becomes subject to this chapter upon the sale by the city of New York of the building in which such dwelling unit is situated may be issued a rent increase exemption order for increases in rent which occurred during ownership of such building by the city of New York provided that such tenant would have been otherwise eligible to receive a rent increase exemption order at the time of such increase but for the fact that such tenant occupied a dwelling unit owned by the city of New York and was therefore not subject to this chapter. Application for such rent increase exemption orders shall be made within one year from the date such building is sold by the city of New York or within one year of the effective date of this provision, whichever is later.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYY51-14.0 added chap 878/1982 § 3

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-615

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-615 Certain rent increases attributable to capital assessments and voluntary capital contributions.

Notwithstanding any inconsistent provision of law, whenever a rent increase exemption order/tax abatement certificate is issued to an eligible head of the household residing in a dwelling unit owned by a housing company which is subject to the provisions of article II, IV, V or XI of the private housing finance law entitling such eligible person to an exemption from an increase in maximum rent attributable to a capital assessment or voluntary capital contribution made prior to, on or after the effective date of this section and such person later transfers his shares in such housing company, such person shall be required to pay over to such housing company, or such housing company shall be entitled to deduct from the amount to be paid to such person for the sale of such shares, all amounts covered by such rent increase exemption order/tax abatement certificate which are attributable to such capital assessment or voluntary capital contribution. Such housing company shall not approve the transfer of shares unless it has received the payment required by the preceding sentence or made the deduction therein authorized. Such housing company shall remit such amount to the commissioner of finance within ninety days of the collection thereof. Payments due to the city in accordance with this section shall be deemed a tax lien and may be enforced in any manner authorized for the collection of delinquent taxes on real property.

HISTORICAL NOTE

Section added chap 584/1987 § 11

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

Administrative Code of the City of New York

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NYC Administrative Code 26-616

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-616 Notification of termination of certain mortgage.

The housing company which owns any dwelling subject to a mortgage insured by the federal government pursuant to section two hundred thirteen of the national housing act, as amended, shall notify the supervising agency of the termination of such mortgage thirty days before such termination.

HISTORICAL NOTE

Section added L.L. 26/1991 § 3, eff. July 19, 1991 deemed in effect Jan. 1, 1991. [See Note]

NOTE

Provisions of L.L. 26/1991:

§ 4. In the event that a dwelling which was subject to a mortgage insured or initially insured pursuant to section 213 of the national housing act, as amended, and such mortgage terminated prior to the date this local law shall have become a law, each "eligible head of the household" of such dwelling as such term is defined in section 26-601 as amended by section one of this local law shall be issued a valid tax abatement certificate as if there had been no lapse in benefit.

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-617

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 7 RENT INCREASE EXEMPTION FOR LOW INCOME ELDERLY PERSONS AND PERSONS WITH DISABILITIES*51

§ 26-617 Eligibility for persons with disabilities.

To qualify as a person with a disability for the purposes of this section, an individual shall submit to such agency as the mayor shall designate proof (as specified by regulation of such agency as the mayor shall designate) showing that such individual is currently receiving social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal social security act or disability pension or disability compensation benefits provided by the United States department of veterans affairs, or was previously eligible by virtue of receiving disability benefits under the supplemental security income program or the social security disability program and is currently receiving medical assistance benefits based on determination of disability as provided in section three hundred sixty-six of the social services law and whose income for the current income tax year, together with the income of all members of such individual's household, does not exceed the maximum income at which such individual would be eligible to receive cash supplemental security income benefits under federal law during such tax year.

HISTORICAL NOTE

Section added L.L. 76/2005 § 21, eff. Oct. 10, 2005.

FOOTNOTES

51

[Footnote 51]: * Chapter heading amended L.L. 76/2005 § 19, eff. Oct. 10, 2005.

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Administrative Code of the City of New York

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NYC Administrative Code 26-701

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-701 Application.

The provisions of this chapter shall apply to conversions from rental to cooperative or condominium status of a building or a group of buildings or a development for which a plan must be filed with the state department of law pursuant to section three hundred fifty-two-eeee of the general business law.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-1.0 added LL 70/1982 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-702

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-702 Definitions.

As used in this chapter the following words shall mean:

a. "Building" any building, group of buildings or development.

b. "Total price" (1) with respect to cooperative conversions, the number of all shares in the offering multiplied by the last price per share which was offered to tenants in occupancy prior to the effective date of the plan regardless of number of sales made; (2) with respect to condominium conversions, the sum of the cost of all units in the offering at the last price which was offered to tenants in occupancy prior to the effective date of the plan regardless of number of sales made.

c. "Capital replacement" a building-wide replacement of a major component of any of the following systems:

(1) elevator;

(2) heating, ventilation and air conditioning;

(3) plumbing;

(4) wiring;

(5) window;

or, a major structural replacement to the building; provided, however, that replacements made to cure code violations of record shall not be included.

d. "Offeror" the offeror, his or her nominees, assignees and successors in interest.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-2.0 added LL 70/1982 § 2

CASE NOTES

¶ 1. Definition of "total price" contained in § 26-702(b)(1) is the price in effect just prior to the effective date, not the price in effect during the exclusive purchase price period (ie. the insider's price). Turtle Bay Housing Corp. v. Welco Associates, 228 A.D.2d 189, 643 N.Y.S.2d 95 (App.Div. 1st Dept. 1996).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-703

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-703 Establishment of reserve fund.

a. Within thirty days after the closing of a conversion pursuant to an offering plan the offeror shall establish and transfer to the cooperative corporation or condominium board of managers, a reserve fund to be used exclusively for making capital repairs, replacements and improvements necessary for the health and safety of the residents of such buildings. Such reserve fund shall be exclusive of any other funds required to be reserved under the plan or applicable law or regulation of the state attorney general, except a fund for capital repairs, replacements and improvements substantially similar in purpose to and in an amount not less than the reserve fund mandated by this section. Such reserve fund also shall be exclusive of any working capital fund and shall not be subject to reduction for closing apportionments.

b. Such fund shall be established in an amount equal to either (i) three per cent of the total price or, (ii) (A) three per cent of the actual sales price of all cooperative shares or condominium units sold by the offeror at the time the plan is declared effective, provided, however, that if such amount is less than one per cent of the total price, then the fund shall be established as a minimum of one per cent of the total price; plus (B) supplemental contributions to be made by the offeror at a rate of three per cent of the actual sales price of cooperative shares or condominium units for each unit or its allocable shares held by the offeror and sold to bona fide purchasers subsequent to the effective date of the plan and within five years of the closing of the conversion pursuant to such plan notwithstanding that the total amount contributed may exceed three per cent of the total price; and provided, further, that if five years from thirty days after the closing of the conversion pursuant to such plan the total contributions by the offeror to the fund are less than three per cent of the total price the offeror shall pay the difference between the amount contributed and three per cent of the total price. Supplemental contributions shall be made within thirty days of each sale.

c. The contributions required pursuant to this section may be made earlier or in an amount greater than so provided. An offeror may claim and receive credit against the mandatory initial contribution to the reserve fund for the actual cost of capital replacements which he or she has begun after the plan is submitted for filing to the state department of law and before the plan is declared effective; provided, however, that any such replacements must be set forth in the plan together with their actual or estimated costs and further provided, that such credit shall not exceed the lesser of the actual cost of the capital replacements or one per cent of the total price.

d. Any building, construction of which was completed within three years prior to the closing of a conversion pursuant to an offering plan, shall be exempt from the requirements of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-3.0 added LL 70/1982 § 2

CASE NOTES

¶ 1. The state agency could lawfully prohibit a newly converted cooperative from issuing rent increases for major capital improvements funded out of the cash reserve fund. Matter of Versailles Realty Co. v. New York State Division of Housing and Community Renewal, 76 N.Y.2d 325, 559 N.Y.S.2d 471 (1990).

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Administrative Code of the City of New York

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NYC Administrative Code 26-704

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-704 Report on status of reserve fund.

The cooperative corporation or condominium board of managers shall report to shareholders and unit owners on a semi-annual basis with respect to all deposits into and withdrawals from the reserve fund mandated by section 26-703 of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-4.0 added LL 70/1982 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 26-705

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-705 Posting of violations.

The offeror, not later than the thirtieth day following the acceptance of a plan for filing by the state department of law pursuant to section three hundred fifty-two-eeee of the general business law and until the closing of the conversion pursuant to such plan, shall post and maintain in a prominent place, accessible to all tenants in each building covered by the plan, a listing of all violations of record against such buildings as determined by the department of buildings and the department of housing preservation and development. All newly issued violations shall be posted within fortyeight hours of their issuance and maintained as described above. The offeror may satisfy the requirements of this section by designating an agent on the premises with whom such listing shall be made available for inspection by the tenants.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-5.0 added LL 70/1982 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 26-706

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-706 Report on condition of premises.

Where, pursuant to law or regulation of the state attorney general, an offeror is required to file a report with the state department of law describing the condition of the physical aspects of the premises to be converted and the surrounding neighborhood, a copy of such report shall be submitted simultaneously to the commissioner of buildings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-6.0 added LL 70/1982 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-707

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-707 No waiver of rights.

Any provision purporting to waive the provisions of this chapter in any contract to purchase or agreement between an offeror and the cooperative corporation or the condominium board of managers pursuant to a conversion plan shall be void as against public policy.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-7.0 added LL 70/1982 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 26-708

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 8 COOPERATIVE AND CONDOMINIUM CONVERSIONS

§ 26-708 Criminal and civil penalties; enforcement.

a. Except as otherwise provided in subdivision b of this section, any person who knowingly violates or assists in the violation of any section of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than one thousand dollars. Except as otherwise provided in subdivision b of this section, any person who violates or assists in the violation of any section of this chapter shall be subject to a civil penalty of one hundred dollars per day per unit for each day that a building is not in compliance with the provisions of such sections; provided, however, that such civil penalty shall not exceed one thousand dollars per unit.

b. Any person who knowingly violates or assists in the violation of section 26-703 of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not more than two times the amount required to be reserved by section 26-703 of this chapter which was not so reserved. Any person who violates or assists in the violation of section 26-703 of this chapter shall also be subject to a civil penalty of one thousand dollars per day for each day that the reserve fund required by section 26-703 of this chapter is not established; provided, however, that such civil penalty shall not exceed the amount required to be reserved pursuant to section 26-703 of this chapter.

c. In addition, any other action or proceeding in any court of competent jurisdiction that may be appropriate or necessary for the enforcement of the provisions of this chapter may be brought in the name of the city, including actions to secure permanent injunctions enjoining any acts or practices which constitute a violation of any provision of this chapter, mandating compliance with the provisions of this chapter or for such other relief as may be appropriate. In any such action or proceeding the city may apply to any court of competent jurisdiction, or to a judge or justice thereof, for a temporary restraining order or preliminary injunction enjoining and restraining all persons from violating any provision of this chapter, mandating compliance with the provisions of this chapter, or for such other relief as may be appropriate,

until the hearing and determination of such action or proceeding and the entry of final judgment or order therein. The court, or judge or justice thereof, to whom such application is made, is hereby authorized forthwith to make any or all of the orders above specified, as may be required in such application, with or without notice, and to make such other or further orders or directions as may be necessary to render the same effectual. No undertaking shall be required as a condition of the granting or issuing of such order, or by reason thereof.

d. Nothing contained in this section shall impair any rights, remedies or causes of action accrued or accruing to purchasers of cooperative shares or condominium units.

e. The department of housing preservation and development is empowered to enforce the provisions of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § YYYY51-8.0 added LL 70/1982 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-801

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-801 Definitions.

For the purposes of this section, the following definitions shall apply:

(a) "Affordable" shall mean that rental expenses for dwelling units do not exceed thirty percent of the annual gross household income of the existing tenants, and/or where rental expenses do not exceed the rent levels allowable pursuant to the rent restrictions applicable to such dwelling units prior to conversion, provided however that dwelling units which become vacant in assisted rental housing should not be rented to households whose income exceeds eighty percent of the New York metropolitan area median income as determined by the United States department of housing and urban development.

(b) "Appraised value" shall mean the value as determined by a majority vote of an advisory panel of three appraisers who shall perform such appraisal in accordance with the American Arbitration Association's rules for the real estate industry.

(c) "Assisted rental housing" shall mean a privately-owned multiple dwelling or group of multiple dwelling units managed together under the same ownership in which the majority of dwelling units therein are subject to federal, state or city income eligibility restrictions and in which rents for such dwelling units are controlled, regulated or assisted by a federal, state or city agency pursuant to a regulatory agreement or rental assistance agreement designed to make such dwelling units affordable on a project-based basis. Assisted rental housing programs shall include:

(1) any program created, administered, or supervised by the city or state under article II or article IV of the private housing finance law, but shall not include any multiple dwelling owned or operated by a company organized

under article II or article IV of the private housing finance law that was occupied prior to January 1, 1974.

(2) any program providing project-based assistance under section eight of the United States housing act of 1937, as it may be amended from time to time; and

(3) housing programs governed by sections 202, 207, 221, 232, 236, or 811 of the national housing act, (12 U.S.C. 1701 et seq.), as they may be amended from time to time;

(d) "Bona fide purchaser" shall mean a person or entity that has tendered a bona fide offer to purchase the assisted rental housing.

(e) "Bona fide offer to purchase" shall mean a good faith and without fraud offer, made in writing and approved by the department that is tendered by a bona fide purchaser no later than one hundred and twenty days after an appraisal performed pursuant to section 26-804 of this chapter, and that is non-binding on the owner with intent to convert.

(f) "Conversion" or "convert" shall mean the transfer of title, leasing, intention to sell or lease, mortgage pre-payment, withdrawal from an assisted housing program, decision not to extend or renew participation in the program or any other action taken by the owner that would result in the termination of participation by the owner in the assisted rental housing program.

(g) "Household" shall mean all lawful occupants of any dwelling unit as defined in section 27-2004 of this code.

(h) "Household income" shall mean, for any household, the sum of the amount reported separately in the most recent individual or joint tax return for wage or salary income, net self-employed income, interest, dividends, rent received, royalties, social security or railroad retirement benefits or disability benefits and all other income for each member of the household reported on a tax return.

(i) "Department" shall mean the department of housing preservation and development or successor agency.

(j) "Financial assistance" shall mean any benefits received as a result of an assisted rental housing program that act to maintain affordable rents in the assisted rental housing.

(k) "First opportunity to purchase" shall mean the opportunity by a tenant association, or if applicable, a qualified entity, to purchase in good faith and without fraud the assisted rental housing at or below its appraised value before such assisted rental housing becomes subject to conversion.

(l) "Notice" shall mean a written communication addressed to a tenant association, or if no tenant association exists, to each tenant, or if applicable, to a qualified entity, by means of first class and registered mail, or personal delivery upon a tenant association, or if no tenant association exists, upon each tenant, or if applicable, a qualified entity. Each such notice shall be deemed to have been given upon the deposit of such first class and registered mail in the custody of the United States postal service or upon receipt of personal delivery, and by posting of such notice in the common areas of the assisted rental housing.

(m) "Owner" shall mean any person or entity, or combination of such persons or entities, or any agent of such persons or entities, that has a controlling interest in assisted rental housing that is subject to conversion.

(n) "Qualified entity" shall mean any individual, partnership, limited liability partnership, limited liability corporation, not-for-profit corporation or business corporation, or other entity authorized to do business in New York state and experienced in the management of affordable housing, designated by the tenants residing in at least sixty percent of the occupied dwelling units within the same assisted rental housing to act on its behalf pursuant to section 26-809 of this chapter and approved in writing by the department and which obligates itself and any successors in interest to assume the ongoing responsibility of continuing maintenance and operation of the assisted rental housing as

affordable for the duration of the housing's useful life and in accordance with the purposes of this chapter.

(o) "Right of first refusal" shall mean the right of a tenant association, or if applicable, a qualified entity, to submit a good faith and without fraud offer, in writing to the owner to purchase the higher of the assisted rental housing's appraised value or the identical price, terms and conditions offered by a bona fide purchaser as approved by the department.

(p) "Tenant" shall mean a lawful occupant who resides within a dwelling unit within such assisted rental housing pursuant to law or a lease recognized by either the owner of such assisted rental housing, the department or a court of competent jurisdiction.

(q) "Tenant association" shall mean an association, whether incorporated or not, for which written consent to forming a tenant association has been given by tenants representing at least sixty percent of the occupied dwelling units within the same assisted rental housing, and which association notifies or has notified the owner of the assisted rental housing and the department of its existence or establishment and has provided to such owner and the department the names and addresses of at least two of the officers or representatives of such association. Where more than one group of tenants in the same assisted rental housing claims to be the tenant association for such assisted rental housing, the department shall determine which group, if any, is the tenant association for the purposes of this chapter in the same manner as the department certifies a tenant association for the purposes of article II of the private housing finance law.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

52

[Footnote 52]: * Chapter 9 added L.L. 79/2005 § 2, eff. Nov. 15, 2005. Note provisions of L.L. 79/2005:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that the increasing scarcity of affordable housing in the City makes it crucial to preserve existing subsidized housing units. Private owners are electing to prepay subsidized mortgages or to opt out of project-based subsidy programs at an alarming rate. No longer constrained by such programs, owners are putting their buildings up for sale, with the new purchasers forcing out low- and moderate-income tenants as the buildings open to market rents.

One in ten federally subsidized assisted rental housing units in New York City has been or is in the process of being removed from the affordable housing stock, according to data compiled by the Community Service Society. Compounding this problem, the federal government has eliminated funding for programs designed to promote the preservation of subsidized housing, and it does not appear that any new federal programs will be funded to create new subsidized housing. In the face of such conversions from affordable housing to market rate housing, some city and state governments have enacted legislation granting a right of first refusal and a first opportunity to purchase to low to moderate-income residents who will maintain the buildings as housing for low- and moderate-income residents. The City of New York has an obligation to safeguard against the loss of affordable housing and the Council is enacting this local law to help ensure that the assisted rental housing stock is maintained for the people of New York.

. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be

confined to that part deemed invalid.

§ 4. This local law shall take effect ninety days after its enactment into law except that the commissioner of housing preservation and development shall take all actions, including the promulgation of rules, necessary for the implementation of this local law prior to such effective date.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-802

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-802 Notification of impending conversion.

(a) Notice shall be provided by the owner to the tenant association, or if no tenant association exists, to each tenant, and to the department of the intention of the owner to take any action that will result in the conversion of the assisted rental housing.

(b) Such notice shall be provided no less than twelve months prior to the taking of such action by the owner. Such notice shall include the following information:

(1) The name and address of each owner of the assisted rental housing. For any owner that is a corporation, the notice shall contain the names and addresses of the officers and directors of the corporation and of any person directly or indirectly holding more than ten percent of any class of the outstanding stock of the corporation. For any owner that is a partnership or joint venture, the notice shall contain the name and address of each individual who is a principal or exercises control of such entities.

(2) The address and/or addresses and the name and/or names of the assisted rental housing and the type of program or programs to which the assisted rental housing is subject;

(3) The nature of the action that the owner intends to take that will result in a conversion;

(4) The date on which such action resulting in the conversion is anticipated to take place;

(5) The provision of law, rule or regulation pursuant to which such action is authorized;

(6) The total number and type of dwelling units subject to a conversion; (7) The current rent schedule for the dwelling units along with an estimation of the rent increases anticipated upon conversion;

(8) The income and expense report for the twelve-month period prior to the notice including capital improvements, real property taxes and other municipal charges;

(9) The amount of the outstanding mortgage as of the date of the notice; (10) The two most recent inspection reports from the real estate assessment center of the United States department of housing and urban development, for the assisted rental housing or group of multiple dwelling units operated together under the same ownership for which such inspection reports are required, or, the reports of the two most recent comprehensive building-wide inspection reports that may have been conducted by the department or by the New York state division of housing and community renewal;

(11) A statement of notice in a manner approved by the department which advises a tenant association, or if no tenant association exists, advises each tenant, of the first opportunity to purchase as required by section 26-806 of this chapter, or of the right of first refusal, as required by section 26-805 of this chapter;

(12) Such other information the department may require.

(c) During the twelve-month notification period provided for in subdivision b of this section the owner may not sell or contract to sell the assisted rental housing, but may engage in such discussions with other interested parties.

(d) Notice shall not be required of an owner who intends to maintain the property as assisted rental housing or intends to transfer, lease or refinance a mortgage in order to maintain the property as assisted rental housing.

(e) Where an owner decides not to convert the assisted rental housing program, such owner may withdraw the notice of intention to convert the assisted rental housing program, subject to the terms of any accepted offer to purchase or executed purchase and sale agreement, and to existing statutory and common law remedies. In such event, the owner shall give notice to the tenant association, or if no tenant association exists, to each tenant, or if applicable, to a qualified entity, and to the department. However, should the owner at any time decide to take an action that will result in conversion, the twelve-month notice period of this section as well as all other applicable requirements of this chapter shall be complied with.

(f) Notwithstanding any of the above, if any applicable supervening statute or program has a notice requirement substantially similar to any notice requirement of this section, then the notice requirement under this section shall be that of the supervening statute or program.

(g) Notwithstanding any of the above, if the notices required by this section require more information than is required by any applicable supervening city, state or federal statute or program, then such additional information shall be provided within the time period established by the supervening statute or program.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

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[Footnote 52]: * Chapter 9 added L.L. 79/2005 § 2, eff. Nov. 15, 2005. Note provisions of L.L. 79/2005:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that the increasing scarcity of affordable housing in the City makes it crucial to preserve existing subsidized housing units. Private owners are electing to prepay subsidized mortgages or to opt out of project-based subsidy programs at an alarming rate. No longer constrained by such programs, owners are putting their buildings up for sale, with the new purchasers forcing out low- and moderate-income tenants as the buildings open to market rents.

One in ten federally subsidized assisted rental housing units in New York City has been or is in the process of being removed from the affordable housing stock, according to data compiled by the Community Service Society. Compounding this problem, the federal government has eliminated funding for programs designed to promote the preservation of subsidized housing, and it does not appear that any new federal programs will be funded to create new subsidized housing. In the face of such conversions from affordable housing to market rate housing, some city and state governments have enacted legislation granting a right of first refusal and a first opportunity to purchase to low to moderate-income residents who will maintain the buildings as housing for low- and moderate-income residents. The City of New York has an obligation to safeguard against the loss of affordable housing and the Council is enacting this local law to help ensure that the assisted rental housing stock is maintained for the people of New York.

. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part deemed invalid.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-803

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-803 Notification of bona fide offer to purchase.

(a) If the owner receives a bona fide offer to purchase and intends to consider, or respond to such bona fide offer to purchase, then notice shall be provided by the owner to a tenant association, or if no tenant association exists, to each tenant, or if applicable, a qualified entity, and the department, no more than fifteen days from the date that such bona fide offer to purchase is delivered to the owner. Such notice shall contain the following information:

(1) The name and address of the proposed bona fide purchaser; and

(2) The price and terms and conditions of the offer;

(b) The owner shall not be required to provide notice in accordance with subdivision a of this section if the bona fide purchaser making the offer agrees to maintain the assisted rental housing as affordable. The bona fide purchaser shall be required to inform the department as to how such bona fide purchaser intends to keep the assisted rental housing as affordable.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

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NYC Administrative Code 26-804

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§ 26-804 Appraisal determination.

(a) The department shall convene an advisory panel, which advisory panel shall determine the appraised value of the assisted rental housing within thirty days of a tenant association's, or if applicable, a qualified entity's notice to the owner and the department pursuant to subdivision a of section 26-805 or subdivision a of section 26-806 of this chapter.

(b) The advisory panel shall consist of one appraiser selected by the owner, one appraiser selected by the tenant association, or if applicable, a qualified entity, and one appraiser to be selected either by mutual agreement between the owner and the tenant association or if applicable, a qualified entity, or by mutual agreement between the appraiser that was selected by the owner and the appraiser selected by the tenant association, or if applicable, a qualified entity, if such condition is deemed acceptable to the owner and the tenants association, or if applicable, a qualified entity, and is agreed upon in writing, except that in the case of where there is no agreement between the owner and the tenant association, or if applicable, a qualified entity, or between the appraiser that was selected by the owner and the appraiser selected by the tenant association, or if applicable, a qualified entity, then the appraiser will be selected by the department. The cost for the appraiser shall be borne by the party responsible for providing such appraiser. However, where the department must select the third appraiser, the cost for such appraiser shall be equally borne by the owner and the tenant association, or if applicable, a qualified entity.

(c) Notice shall be provided by the department to the owner and the tenant association, or if applicable, a qualified entity, fifteen days before the intended date that such advisory panel is to initiate the performance of the appraisal. In the instance when either the owner fails to provide an appraiser within fifteen days of such notice or when the tenant association, or if applicable, a qualified entity, fails to provide an appraiser within fifteen days of such notice then the department shall select the appraiser on behalf of the party or parties that failed to select an appraiser. In such

circumstance, the cost for the appraiser selected by the department shall be borne by the party responsible for providing that appraiser.

(d) The department shall promulgate rules for the timely determination of the appraised value and that such rules are to be consistent with the notice requirements mandated under this chapter. The department shall make such appraised value publicly available within fifteen days from the date of such advisory panel's determination.

(e) In the instance where the owner and the tenant association, or if applicable, a qualified entity, have mutually agreed upon an appraised value for the assisted rental housing prior to the convening of the advisory panel, the owner and the tenant association, or if applicable, a qualified entity, may in writing apply to the department for a waiver from subdivisions a through d of this section. The department shall make a determination upon such application for a waiver within fifteen days from receipt of such application.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

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§ 26-805 Right of first refusal.

(a) A tenant association, or if applicable, a qualified entity, shall notify the owner and the department in writing of its intent to exercise its right of first refusal within sixty days from receipt of notice from the owner pursuant to subdivision a of section 26-802 of this chapter.

(b) The tenant association, or if applicable, a qualified entity, following notice by the owner in compliance with subdivision a of section 26-802 of this chapter, shall have one hundred twenty days from the date of the notice of the determination of the appraised value to submit its offer to purchase.

(c) The tenant association, or if applicable, a qualified entity, following notice by the owner in compliance with subdivision a of section 26-803 of this chapter, shall have one hundred twenty days from the date of a bona fide offer to purchase to submit its offer to purchase.

(d) If through no fault of a tenant association, or if applicable, a qualified entity, or the owner, the time periods provided for in subdivisions b or c of this section need to be extended, then such time periods may be extended by the department. Should such time period be extended past the notice period provided for in subdivision a of section 26-802 of this chapter, then the provisions of the applicable assisted rental housing program shall remain in full force and effect to the extent permitted by law.

(e) Unless the owner and a tenant association, or if applicable, a qualified entity, otherwise agree to purchase the assisted rental housing below its appraised value, the owner shall sell such assisted rental housing at the appraised value or at the price contained in a bona fide offer to purchase price as approved by the department.

(f) The department shall promulgate rules for the timely completion of all lending program applications, credit reviews and loan closings.

(g) If a tenant association, or if applicable, a qualified entity, does not submit its offer in writing to the owner and the department within the time periods stated in subdivisions b or c of this section following notice by the owner in compliance with subdivision a of section 26-802 of this chapter, then such right will be deemed waived and the owner shall have no further obligations under this section. However, where a tenant association, or if applicable, a qualified entity, has previously submitted a notice in accordance with subdivision a of this section decides not to exercise such right, it may withdraw such notice by giving written notice to that effect to the owner and to the department.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

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. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part deemed invalid.

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NYC Administrative Code 26-806

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§ 26-806 First opportunity to purchase.

(a) A tenant association, or if applicable, a qualified entity, shall notify the owner and the department in writing of its intent to exercise its right of first opportunity to purchase within sixty days from receipt of notice from the owner pursuant to subdivision a of section 26-802 of this chapter.

(b) The tenant association, or if applicable, a qualified entity, following notice by the owner in compliance with subdivision a of section 26-802 of this chapter, shall have one hundred twenty days from the date of the notice of the determination of the appraised value to submit its offer to purchase.

(c) If through no fault of a tenant association, or if applicable, a qualified entity, or the owner, the time period provided for in subdivision b of this section needs to be extended, then such time period may be extended by the department. Should such time period be extended past the notice period provided for in subdivision a of section 26-802 of this chapter, then the provisions of the applicable assisted rental housing program shall remain in full force and effect to the extent permitted by law.

(d) Except where the owner and a tenant association, or if applicable, a qualified entity, agree to a purchase price of the assisted rental housing at an amount below the appraised value, any offer made pursuant to this section shall be accepted by the owner.

(e) If a tenant association, or if applicable, a qualified entity, does not submit its offer in writing to the owner and the department within the time periods stated in subdivision b of this section following notice by the owner in compliance with subdivision a of section 26-802 of this chapter, then such right will be deemed waived and the owner

shall have no further obligations under this section. However, where a tenant association, or if applicable, a qualified entity, has previously submitted a notice in accordance with subdivision a of this section decides not to exercise such right, it may withdraw such notice by giving written notice to that effect to the owner and to the department.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

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One in ten federally subsidized assisted rental housing units in New York City has been or is in the process of being removed from the affordable housing stock, according to data compiled by the Community Service Society. Compounding this problem, the federal government has eliminated funding for programs designed to promote the preservation of subsidized housing, and it does not appear that any new federal programs will be funded to create new subsidized housing. In the face of such conversions from affordable housing to market rate housing, some city and state governments have enacted legislation granting a right of first refusal and a first opportunity to purchase to low to moderate-income residents who will maintain the buildings as housing for low- and moderate-income residents. The City of New York has an obligation to safeguard against the loss of affordable housing and the Council is enacting this local law to help ensure that the assisted rental housing stock is maintained for the people of New York.

. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part deemed invalid.

§ 4. This local law shall take effect ninety days after its enactment into law except that the commissioner of housing preservation and development shall take all actions, including the promulgation of rules, necessary for the implementation of this local law prior to such effective date.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-807

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-807 Prior notification.

Notwithstanding any other provision of this chapter, where an owner has given notice prior to the effective date of this chapter and the intent of such notice is to initiate a procedure to withdraw the assisted rental housing from a program set forth in subdivision c of section 26-801 of this chapter, and such notice was properly given in accordance with any other applicable provision of law and more than forty-five days remain prior to the expiration of the time period applicable to such notice, a tenant association, or if applicable, a qualified entity, may complete any action authorized by sections 26-804, 26-805 and 26-806 of this chapter at any time prior to the expiration of such time period.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-808

Administrative Code of the City of New York

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§ 26-808 Long term affordability.

A tenant association, or if applicable, a qualified entity, including all successors in interest, which chooses to exercise the rights provided for in section 26-805 or section 26-806 of this chapter will be obligated to maintain the assisted rental housing as affordable.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

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Administrative Code of the City of New York

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NYC Administrative Code 26-809

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§ 26-809 Right of transfer.

(a) During the notice period provided for in section 26-802 of this chapter, the tenants, by written consent of the tenants residing in at least sixty percent of the occupied dwelling units within the same assisted rental housing, may transfer the rights established by section 26-805 and section 26-806 of this chapter to a qualified entity.

(b) Notice of such transfer shall be provided to the owner and the department in writing within sixty days from receipt of notice from the owner pursuant to section 26-802 of this chapter.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-810

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-810 Conversion of property.

Notwithstanding the provisions of section 26-805 and section 26-806 of this chapter, when a conversion occurs, an owner or bona fide purchaser shall allow the current tenant or tenants to remain in their respective dwelling units for the longer of six months from the effective date of the conversion or until the tenant's lease expires, and at the same terms and conditions as before such conversion. Such owner or purchaser may, with the agreement of the tenant or tenants, relocate such tenant or tenants to comparable units with comparable rents in accordance with procedures to be established by the rules of the department.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

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§ 26-811 Penalty.

An owner found to have violated any provision of this chapter shall, in addition to any other monetary and/or equitable damages for which the owner may be liable, be liable for a civil penalty of five thousand dollars per month per dwelling unit in the assisted rental housing, and shall also pay to a tenant association, or if no tenant association exists, each tenant, or if applicable, a qualified entity, fees and costs incurred in bringing an enforcement proceeding. The total civil penalties may not exceed one hundred thousand dollars per dwelling unit. Nothing in this section shall be interpreted as prohibiting the tenant association, or if no tenant association exists, the tenants, or if applicable, a qualified entity, from seeking injunctive relief against a non-compliant owner. Such proceeding shall be brought in a court of competent jurisdiction.

HISTORICAL NOTE

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52

[Footnote 52]: * Chapter 9 added L.L. 79/2005 § 2, eff. Nov. 15, 2005. Note provisions of L.L. 79/2005:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that the increasing scarcity of affordable housing in the City makes it crucial to preserve existing subsidized housing units. Private owners are electing to prepay subsidized mortgages or to opt out of project-based subsidy programs at an alarming rate. No longer constrained by such programs, owners are putting their buildings up for sale, with the new purchasers forcing out low- and moderate-income tenants as the buildings open to market rents.

One in ten federally subsidized assisted rental housing units in New York City has been or is in the process of being removed from the affordable housing stock, according to data compiled by the Community Service Society. Compounding this problem, the federal government has eliminated funding for programs designed to promote the preservation of subsidized housing, and it does not appear that any new federal programs will be funded to create new subsidized housing. In the face of such conversions from affordable housing to market rate housing, some city and state governments have enacted legislation granting a right of first refusal and a first opportunity to purchase to low to moderate-income residents who will maintain the buildings as housing for low- and moderate-income residents. The City of New York has an obligation to safeguard against the loss of affordable housing and the Council is enacting this local law to help ensure that the assisted rental housing stock is maintained for the people of New York.

. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part deemed invalid.

§ 4. This local law shall take effect ninety days after its enactment into law except that the commissioner of housing preservation and development shall take all actions, including the promulgation of rules, necessary for the implementation of this local law prior to such effective date.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-812

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-812 Exclusions.

(a) Nothing in this chapter shall affect any existing agreement between a tenant association and an owner regarding the management and operation of the assisted rental housing or the transfer of the assisted rental housing to a tenant association or similar organization in effect on the effective date of this chapter, except that any renewal, modification or amendment of such agreement occurring on or after the effective date of this local law shall be subject to the provisions of this chapter.

(b) Nothing in this chapter shall affect any existing agreement between an owner and one or more governmental entities relating to the management and operation of a multiple dwelling that is not otherwise subject to the private housing finance law or to federal law.

(c) Nothing in this chapter shall affect an owner or purchaser who wants to refinance in order to maintain participation in an assisted rental housing program.

(d) The provisions of this chapter shall not apply to a purchase by a governmental entity implementing its powers of eminent domain; a judicially supervised sale or transfer of property; any bankruptcy proceedings; or operation of law.

(e) The provisions of this chapter shall not apply where a notice as described in section 26-807 of this chapter was properly given in accordance with any other applicable provision of law and forty-five or fewer days remain prior to the expiration of such applicable notice period.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

52

[Footnote 52]: * Chapter 9 added L.L. 79/2005 § 2, eff. Nov. 15, 2005. Note provisions of L.L. 79/2005:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that the increasing scarcity of affordable housing in the City makes it crucial to preserve existing subsidized housing units. Private owners are electing to prepay subsidized mortgages or to opt out of project-based subsidy programs at an alarming rate. No longer constrained by such programs, owners are putting their buildings up for sale, with the new purchasers forcing out low- and moderate-income tenants as the buildings open to market rents.

One in ten federally subsidized assisted rental housing units in New York City has been or is in the process of being removed from the affordable housing stock, according to data compiled by the Community Service Society. Compounding this problem, the federal government has eliminated funding for programs designed to promote the preservation of subsidized housing, and it does not appear that any new federal programs will be funded to create new subsidized housing. In the face of such conversions from affordable housing to market rate housing, some city and state governments have enacted legislation granting a right of first refusal and a first opportunity to purchase to low to moderate-income residents who will maintain the buildings as housing for low- and moderate-income residents. The City of New York has an obligation to safeguard against the loss of affordable housing and the Council is enacting this local law to help ensure that the assisted rental housing stock is maintained for the people of New York.

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§ 4. This local law shall take effect ninety days after its enactment into law except that the commissioner of housing preservation and development shall take all actions, including the promulgation of rules, necessary for the implementation of this local law prior to such effective date.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 26-813

Administrative Code of the City of New York

Title 26 Housing and Building

CHAPTER 9 RIGHT OF FIRST REFUSAL AND FIRST OPPORTUNITY TO PURCHASE*52

§ 26-813 Judicial review.

Any person aggrieved by an appraisal determination made pursuant to section 26-804 of this chapter, or by the failure of the department to approve a bona fide offer to purchase, may, within thirty days of the appraisal determination or action by the department, seek judicial review pursuant to article seventy-eight of the civil practice law and rules in the supreme court for the county in which the assisted rental housing is located. In the event that a court may find that the appraisal or action by the department constitutes the equivalent of a taking without just compensation, the court shall require that a new appraisal or determination be made. The time periods set forth in this chapter shall be tolled during the pendency of such a proceeding and until a new appraisal or determination, if needed, is made.

HISTORICAL NOTE

Section added L.L. 79/2005 § 2, eff. Nov. 15, 2005. [See Chapter 9 footnote]

FOOTNOTES

52

[Footnote 52]: * Chapter 9 added L.L. 79/2005 § 2, eff. Nov. 15, 2005. Note provisions of L.L. 79/2005:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby

finds that the increasing scarcity of affordable housing in the City makes it crucial to preserve existing subsidized housing units. Private owners are electing to prepay subsidized mortgages or to opt out of project-based subsidy programs at an alarming rate. No longer constrained by such programs, owners are putting their buildings up for sale, with the new purchasers forcing out low- and moderate-income tenants as the buildings open to market rents.

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. . . . . § 3. If any sentence, paragraph, section or part of this local law shall be adjudged invalid by a court of competent jurisdiction such judgment shall not impair or invalidate the remainder thereof but shall be confined to that part deemed invalid.

§ 4. This local law shall take effect ninety days after its enactment into law except that the commissioner of housing preservation and development shall take all actions, including the promulgation of rules, necessary for the implementation of this local law prior to such effective date.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-101

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-101 Title.

This code shall be known and may be cited as the "1968 building code of the city of New York" or the "1968 building code", and is hereinafter referred to as "this code" or "the code."

HISTORICAL NOTE

Section amended L.L. 33/2007 § 3, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.1 added chap 929/1937 § 1

Repealed and added LL 76/1968 § 1

(formerly § C26-1.0)

CASE NOTES FROM FORMER SECTION

¶ 1. Action for personal injuries against landlord defendant. Defendant's motion for summary judgment denied. Although lessee of premises was responsible for maintenance and repairs, defendants had the right to enter and inspect and make repairs deemed necessary and defendants had duty-pursuant to Sub-Article 100.00-to maintain premises in good repair. Accordingly defendants may be held liable for breach of such statutory requirements if they retained some degree of control of the property.-John J. Phelan, et al v. John J. Yellin, 122 Misc. 2d 807 [1984].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-102

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-102 Purpose.

The purpose of this code is to provide reasonable minimum requirements and standards, based upon current scientific and engineering knowledge, experience and techniques, and the utilization of modern machinery, equipment, materials, and forms and methods of construction, for the regulation of building construction in the city of New York in the interest of public safety, health and welfare, and with due regard for building construction and maintenance costs.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.2 added chap 929/1937 § 1

Repealed and added LL 76/1968 § 1

(formerly § C26-3.0)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-103

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-103 Scope.

On and after July 1, 2008 this code shall apply to the construction, alteration, repair, occupancy and use of new and existing buildings in the city of New York in accordance with and to the extent provided for by chapter 1 of title 28 of the administrative code and the New York city construction codes. On and after July 1, 2008, administration and enforcement of this code shall be in accordance with title 28 of the administrative code.

HISTORICAL NOTE

Section amended L.L. 33/2007 § 4, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.3 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-104

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-104 Interpretation.

This code shall be liberally interpreted to secure the beneficial purposes thereof. Any conflict or inconsistency between the requirements of this code and applicable state and federal laws and regulations shall be resolved in favor of the more restrictive requirement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.4 added LL 76/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The provisions of the Building Code have the force of statutes.-Bressler v. Amsterdam Operating Corp., 194 Misc. 76, 86 N.Y.S. (2d) 250 [1948].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-105

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-105 Effective date.

Any work for which an application for a permit was submitted to the department prior to the effective date of this code, (December sixth nineteen hundred sixty-eight), or for which an application for a permit is submitted to the department within a period of twelve months after such date may, however, at the option of the owner, be performed in its entirety in accordance with the requirements of this code, or in accordance with the requirements of the building laws and regulations previously in force in the city of New York, provided that such work is commenced within twelve months after the date of issuance of a permit therefor and is diligently carried on to completion. This section shall not apply to the requirements of article ten of subchapter nineteen of this chapter which shall become effective on December sixth, nineteen hundred sixty-eight.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.5 added LL 76/1968 § 1

Amended LL 73/1969 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-106

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-106 Enforcement. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 5, eff. July 1, 2008. [See Title 28 footnote]

Section amended L.L. 32/2004 § 1, eff. July 12, 2004.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.6 added LL 76/1968 § 1

Amended LL 41/1978 § 5

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-107

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-107 Variations.

The requirements and standards prescribed in this code shall be subject to variation in specific cases by the commissioner, or by the board of standards and appeals, under and pursuant to the provisions of paragraph two of subdivision (b) of section six hundred forty-five and section six hundred sixty-six of the charter, as amended.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-108

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 1 GENERAL PROVISIONS

§ 27-108 Application of references.

Unless otherwise specifically provided in this code, all references to articles and section numbers, or to provisions not specifically identified by number, shall be construed to refer to articles, sections, or provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-100.9 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-109

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 2 MATTERS COVERED

§ 27-109 Building matters covered.

The provisions of this code shall cover all matters affecting or relating to buildings, as set forth in section 27-103 of article one of this subchapter, and shall extend to excavation operations, and to all types of buildings and structures and their appurtenant constructions, including vaults, signs, projections, and accessory additions, together with all surface and sub-surface construction within the curb line, including curb cuts and driveways, the coverings thereof and entrances thereto, and the issuance of permits in reference thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-101.1 added chap 929/1937 § 1

Amended LL 113/1955 § 8

Repealed and added LL 76/1968 § 1

(formerly § C26-2.0)

Amended LL 61/1969 § 31

CASE NOTES

¶ 1. Defendant corporation's failure to make certain necessary repairs which resulted in the collapse of a wall at the multiple residence and required the vacateur of the rent-regulated residential tenants. The imposition of fines on defendant for violations of the Building Code (Ad Code § C26-100.1 et seq.) was proper. People v. Erin Construction Corp., 147 Misc. 2d 158.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-110

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 2 MATTERS COVERED

§ 27-110 Matters not provided for.

Any matter or requirement essential for the fire or structural safety of a new or existing building or essential for the safety or health of the occupants or users thereof or the public, and which is not covered by the provisions of this code or other applicable laws and regulations, shall be subject to determination and requirements by the commissioner in specific cases.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-101.2 added LL 76/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The plaintiff could not recover for personal injuries received as a result of tripping against the sign of a

manhole cover constructed and maintained by the defendant in an unpaved portion of a sidewalk beyond the curbline. In the absence of a violation of § C26-230.0(b) requiring construction of wall covers "flush with all parts with the sidewalk", there was no proof of negligence. Further, this provision was ineffective since § C26-221.0 made it applicable to such openings only as are "otherwise unprovided for by law" and the construction here was provided for by other laws.-Kaupterstein v. Brooklyn Edison Co., Inc., 292 N.Y. 561, 54 N.E. 2d 686 [1944].

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-111

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 3 CONTINUATION AND CHANGE IN USE

§ 27-111 Continuation of lawful existing use.

The lawful occupancy and use of any building, including the use of any service equipment therein, existing on the effective date of this code or thereafter constructed or installed in accordance with prior code requirements, as provided in section 27-105 of article one of this subchapter, may be continued unless a retroactive change is specifically required by the provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-102.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-112

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 3 CONTINUATION AND CHANGE IN USE

§ 27-112 Change in occupancy or use.

Changes in the occupancy or use of any building may be made after the effective date of this code, subject to the provisions of section 27-217 of article twenty-two of this subchapter. After a change in occupancy or use has been made in a building, the re-establishment of a prior occupancy or use that would not be lawful in a new building of the same construction class shall be prohibited unless and until all the applicable provisions of this code and other applicable laws and regulations for such re-established occupancy or use shall have been complied with. A change from a use prohibited by the provisions of this code, but which was permitted prior to the effective date of this code, to another use prohibited by the provisions of this code shall be deemed a violation of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-102.2 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-113

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 3 CONTINUATION AND CHANGE IN USE

§ 27-113 Continuation of unlawful existing use.

The continuation of the unlawful occupancy or use of a building after the effective date of this code, contrary to the provisions of this code, shall be deemed a violation of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-102.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-114

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-114 Alterations of existing buildings.

Subject to the provisions of section 27-105 of article one of this subchapter, and except as otherwise specifically provided by the provisions of this code, the following provisions shall apply to the alteration of existing buildings, whether made voluntarily or as a result of damage, deterioration or other cause, provided, however, that the following alterations shall conform with the requirements of this code regardless of magnitude or cost:

(a) Alterations or additions to existing standpipes, sprinklers or interior fire alarm and signal systems or a change in use or an enlargement to spaces requiring such protection, as provided in subchapter seventeen of this code.

(b) Alterations, replacements or new installations of equipment for heating or storing water, as provided in reference standard RS-16.

(c) Projections beyond the street line, as provided in subchapter four of this code.

(d) Sprinkler, alarm protection, and emergency lighting requirements for places of assembly, as provided in subchapter eight of this code.

(e) Interior finish work, as provided in section 27-348.

(f) Finish flooring and floor covering, as provided in section 27-351.

(g) The installation or replacement of elevators, as provided in subchapter eighteen of this code.

(h) The installation, alteration or replacement of refrigerating systems as provided in reference standard RS 13-6.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (h) added L.L. 32/2004 § 2, eff. July 12, 2004.

DERIVATION

Formerly Sub-article 103.0 added LL 76/1968 § 1

Open par amended LL 67/1977 § 1

Open par amended LL 41/1978 § 8

Open par amended LL 16/1984 § 8

Open par amended LL 45/1984 § 7

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-115

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-115 Alterations exceeding sixty percent of building value.

If the cost of making alterations in any twelve-month period shall exceed sixty percent of the value of the building, the entire building shall be made to comply with the requirements of this code, except as provided in section 27-120 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.1 added LL 76/1968 § 1

Amended LL 61/1969 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-116

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-116 Alterations between thirty percent and sixty percent of building value.

If the cost of making alterations in any twelve month period shall be between thirty percent and sixty percent of the value of the building, only those portions of the building altered shall be made to comply with the requirements of this code, except as provided in sections 27-120 and 27-121 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.2 added LL 76/1968 § 1

Amended LL 61/1969 § 1

Amended LL 6/1974 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-117

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-117 Alterations under thirty percent of building value.

Except as otherwise provided for in sections 27-120 and 27-121 of this article, if the cost of making alterations in any twelve month period shall be under thirty percent of the value of the building, those portions of the building altered may, at the option of the owner, be altered in accordance with the requirements of this code, or altered in compliance with the applicable laws in existence prior to December sixth, nineteen hundred sixty-eight, provided the general safety and public welfare are not thereby endangered.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.3 added LL 76/1968 § 1

Amended LL 61/1969 § 1

Amended LL 6/1974 § 3

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-118

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-118 Alterations involving change in occupancy or use.

(a) Except as otherwise provided for in this section, if the alteration of a building or space therein results in a change in the occupancy group classification of the building under the provisions of subchapter three, then the entire building shall be made to comply with the requirements of this code.

(b) Except as otherwise provided for in this section, if the alteration of a space in a building involves a change in the occupancy or use thereof, the alteration work involved in the change shall, except as provided for in this section, be made to comply with the requirements of this code and the remaining portion of the building shall be altered to such an extent as may be necessary to protect the safety and welfare of the occupants.

(c) When, however, the cost of alterations involved in the change of occupancy of an existing building erected prior to December sixth, nineteen hundred sixty-eight or space therein authorizes the alterations to be made in compliance with the applicable laws in existence on such sixth day of December, nineteen hundred sixty-eight, such change in occupancy may similarly be made in compliance with such prior laws, provided the general safety and public welfare are not thereby endangered, and further provided that the alteration work shall effect compliance with all requirements of this code relating to interior finish work, finish flooring and floor covering, sprinklers, interior fire

alarms, fire command and communication systems, elevators, smoke detectors, directional signs, emergency lighting and emergency power.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.4 added LL 76/1968 § 1

Amended LL 61/1969 § 1

Amended LL 79/1979 § 17

Amended LL 16/1984 § 9

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-118.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-118.1 Illegal alterations involving change in occupancy. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section amended L.L. 37/2007 § 4, eff. Oct. 31, 2007 with special provisions. [See § 26-126.1 Note 1]

Section added L.L. 65/1997 § 6, eff. Sept. 18, 1997.

CASE NOTES

¶ 1. The statute provides a remedy against anyone who participates in an illegal conversion of a residence to create more apartments than are authorized under the certificate of occupancy-not only owners, but also tenants,

superintendents, contractors and architects. Sorenson v. Ramon, N.Y.L.J., May 17, 2000, page 34, col. 1 (Civ. Ct. Richmond Co.).

¶ 2. In one case, where an owner illegally converted a single family residence into six single room occupancy units, the ECB imposed a fine of more than $14,000. The court upheld the fine and said that it was not excessive. Chiang v. Environmental Control Board, N.Y.L.J., Mar. 3, 2004, at 20, col. 1 (Sup.Ct. Queens Co.).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-119

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-119 Alteration cost: building value.

For the purpose of applying the foregoing provisions of this article, the cost of making alterations shall be determined by adding the estimated cost of making the proposed alterations computed as of the time of submitting the permit application, to the actual cost of any and all alterations made in the preceding twelve-month period; and the value of the building shall be determined at the option of the applicant on the basis of one and one-quarter times the current assessed valuation of the building, as adjusted by the current state equalization rate, or on the basis of the current replacement cost of the building, provided that satisfactory evidence of current replacement cost is submitted to the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-120

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-120 Alterations to multiple dwelling and conversions to multiple dwellings.

At the option of the owner, regardless of the cost of the alteration or conversion, an alteration may be made to a multiple dwelling or a building may be converted to a multiple dwelling in accordance with all requirements of this code or in accordance with all applicable laws in existence prior to December sixth, nineteen hundred sixty-eight, provided the general safety and public welfare are not thereby endangered.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.6 added LL 61/1969 § 2

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-121

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 4 ALTERATIONS OF EXISTING BUILDINGS

§ 27-121 Alterations to residence buildings.

Alterations to one-or two-family residence buildings erected under the provisions of the building code in effect prior to December sixth, nineteen hundred sixty-eight, and damaged by fire or other catastrophe to the extent of less than fifty percent of the value of the building (except as otherwise provided in section 27-297 of article four of subchapter four of this chapter) may be reconstructed in accordance with the provisions of the building code in effect prior to December sixth, nineteen hundred sixty-eight.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.7 added LL 6/1974 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-122

Administrative Code of the City of New York

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§ 27-122 Alterations involving conversions from seasonal to year round use.

(a) Buildings converted from seasonal use to year round use shall comply with the minimum building insulation standards as provided in reference standards RS 12-10, energy conservation in new building design, with the exception that the provisions as set forth in opinion 76-16, state of New York, public service commission, dated August thirteenth, nineteen hundred seventy-six, relating to noise control and fire rating shall not apply. The standards set forth in this code relating to noise control and fire rating and other applicable standards shall apply.

(b) All alterations performed in accordance with the requirements of this section shall also be in full compliance with the provisions of subchapter fourteen (inspections) of chapter one of title twenty-six of the administrative code to insure a method of controlled inspection of all converted buildings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.8 added LL 72/1977 § 1

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NYC Administrative Code 27-123

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§ 27-123 Alterations involving high hazard occupancies.

Any building erected prior to the effective date of this code (December sixth, nineteen hundred sixty-eight) and complying with section 27-117 of this article may be utilized for new high hazard occupancies without compliance with article two of subchapter six of this chapter on condition that the building or building section for such high hazard occupancy be provided with an approved one source automatic sprinkler system complying with the provisions of subchapter seventeen for B-1 occupancies regardless of the area thereof. Existing high hazard occupancies in structures erected prior to the effective date of this code and complying with section 27-117 of this article may continue to operate, subject to such fire protection requirements as the fire commissioner shall direct.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-103.9 added LL 79/1979 § 16

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Administrative Code of the City of New York

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NYC Administrative Code 27-123.1

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§ 27-123.1 Alterations, additions, repairs and changes in occupancy or use requiring facilities for people having physical disabilities.

The provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code shall apply to alterations, additions and repairs made to buildings, as well as to changes in occupancy or use, as set forth below. The provisions of sections 27-115, 27-116, 27-117, 27-118 and 27-120 of this code shall not govern the application of the provisions of such subarticle.

(a) The provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code shall apply to an entire existing building, as if hereafter erected, when the costs of any alterations, additions or repairs, other than ordinary repairs, made within any twelve-month period immediately following the filing of the application exceed fifty percent of the cost of replacement of the building with one of similar floor space, as estimated by the department at the beginning of that twelve-month period. When such estimated costs of alterations, additions or repairs, other than ordinary repairs, do not exceed fifty percent of such replacement cost, then the provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven shall apply to such alterations, additions or repairs, although nothing herein is meant to discourage compliance with the standards set forth in subarticle two of article two of subchapter four of chapter one of title twenty-seven in other portions of buildings described in this

sentence.

(b) The provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code shall apply to an entire existing building, as if hereafter erected, when there is a change in occupancy classification of the building. The provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code shall apply to a space in a building when there is a change in the occupancy type thereof or in how such space is used.

(c) When any work not otherwise required to comply with the provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven is done on an interior accessible route in existing residential buildings, other than in occupancy group J-3, which work involves plumbing fixtures, that work shall be required to comply with section 27-292.8 of this code for the extent of the work being performed, provided such work will not require any structural changes or additional partitions; ordinary repairs and replacement of existing piping shall be exempt from the provisions of this sentence.

(d) Where additions or alterations subject parts of existing systems to loads exceeding those permitted herein, such parts shall be made to comply with this code.

(e) The provisions of subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code and of subdivisions b and c of this section shall not apply to the alteration of existing residential buildings, other than adult residential care facilities, which are classified in occupancy group J-2 and contain no more than three dwelling units or which are classified in occupancy group J-3 and are being altered to contain three dwelling units, and which satisfy the requirements of subdivision (d) of section 27-357 of this code, when the cost of any alterations, additions or repairs, other than ordinary repairs, made within any twelve-month period immediately following the filing of the application do not exceed fifty percent of the cost of replacement of the building with one of similar floor space, as estimated by the department at the beginning of that twelve-month period.

HISTORICAL NOTE

Section added L.L. 58/1987 § 1

CASE NOTES

¶ 1. This section imposes specific obligations on the owners of buildings to safely maintain the building, which obligation could result in liability to third parties whether or not the owner had actual notice of an alleged defect and even if the premises are leased to another who has the responsibility to maintain the premises pursuant to a lease. Guzman v. Haven Plaza Hous., 69 N.Y. 2d 559 [1987].

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NYC Administrative Code 27-123.2

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§ 27-123.2 Provision of sprinklers in existing buildings.

Notwithstanding any provision of law to the contrary, the provisions of section 27-954 of this code shall apply to alterations made to buildings, as well as to changes in occupancy or use, as set forth below:

(a) The provisions of section 27-954 of this code shall apply to an entire existing building that is being altered, when such building is classified in occupancy group J-2 and will have four or more dwelling units upon the completion of the alterations, or is classified in occupancy group J-1, and when the costs of making any alterations to any such J-1 or J-2 building within any twelve-month period exceeds fifty percent of the building value.

(b) The provisions of section 27-954 of this code shall apply to an entire existing building when the occupancy classification of the building will change to a residential occupancy group other than occupancy group J-2 with not more than three dwelling units or occupancy group J-3.

(c) The provisions of section 27-954 of this code shall apply to any space: (1) when alterations thereto involve a change in the occupancy or use thereof to a residential occupancy group other than occupancy group J-2 with not more than three dwelling units or occupancy group J-3, or (2) when the costs of making alterations thereto within any

twelve-month period exceeds fifty percent of the value of the space.

(d) For the purposes of this section, the cost of making alterations and the value of any such building or space shall be determined as set forth in section 27-119 of this chapter; provided, however, that for purposes of this section: (1) the cost of making alterations to a residential building shall be determined based on the aggregate cost of alterations to the residential portions of such building, and the value of such a building shall be determined based on the aggregate value of the residential portions of the building, exclusive of the value of any non-residential portions of the building; and (2) the cost of making alterations to residential spaces in a non-residential building shall be determined based on the collective cost of alterations to such spaces, and the value of such residential spaces shall be determined based on the aggregate value of all such spaces in the building, exclusive of the value of any non-residential portions of the building.

(e) When a system of automatic sprinklers is installed in any existing building or space pursuant to this section, such system shall comply with the requirements of this code and any other laws and rules applicable to the occupancy group in which such building or space is classified or in which such building or space would be classified if such building or space were classified under this chapter.

HISTORICAL NOTE

Section added L.L. 10/1999 § 4, eff. Mar. 24, 1999.

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NYC Administrative Code 27-123.3

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§ 27-123.3 Definition.

For the purposes of this article, the term "existing building" means a building in existence prior to December 6th, 1968 or a building constructed in accordance with the building laws and regulations in force prior to such date in accordance with section 27-105 of this code.

HISTORICAL NOTE

Section added L.L. 33/2007 § 6, eff. July 1, 2008. [See Title 28 footnote]

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NYC Administrative Code 27-124

Administrative Code of the City of New York

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ARTICLE 5 MINOR ALTERATIONS: ORDINARY REPAIRS

§ 27-124 Minor alterations. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-104.1 added LL 76/1968 § 1

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NYC Administrative Code 27-125

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ARTICLE 5 MINOR ALTERATIONS: ORDINARY REPAIRS

§ 27-125 Ordinary repairs. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-104.2 added LL 76/1968 § 1

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NYC Administrative Code 27-126

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ARTICLE 5 MINOR ALTERATIONS: ORDINARY REPAIRS

§ 27-126 Work not constituting minor alterations or ordinary repairs. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section amended L.L. 51/2001 § 5, eff. Aug. 8, 2001.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-104.3 added LL 76/1968 § 1

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NYC Administrative Code 27-127

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ARTICLE 6 MAINTENANCE

§ 27-127 Maintenance requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-105.1 added LL 76/1968 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. Where receiver was forbidden by order of appointment from making repairs costing more than $300 or spending more than he collected except by court order and receiver lacked funds to make repairs, as application to court

for authority to repair would have been a futile gesture and thus receiver could not be convicted for failure to maintain building in safe condition.-People v. Eisenberg, 100 Misc. 2d 29, 420 N.Y.S. 2d 962 [1979].

CASE NOTES

¶ 1. Defendant failed to maintain bulging brickwork and rotten wood header beam over entrance doors in violation of NYC Ad Cd § 27-127 [C26-105.1]. Before sentence a portion of front wall failed causing building to be vacated. Defendant fined. People v. Erin Construction Corp., 136 Misc. 2d 807 [1987].

¶ 2. Beck v. Woodward Affiliates, 640 N.Y.S.2d 205, 226 A.D.2d 328 (1996). A pedestrian who was injured when she leaned against building that had been cleaned with an acid-containing product, could not impose liability against the owner under § 27-127 or 27-128. Although these sections generally impose a non-delegable duty upon an owner to maintain the premises in a safe condition, there was no specific structural or design defect in the facade of the building which would create liability under the Code. Moreover, these sections apply only to owners, so that plaintiff could not maintain the action against the lessee of the building. Thus, the plaintiff's remedy is to sue the independent contractor who performed the work in question.

¶ 3. A landowner who was completely parted with possession and control of a building will not be held liable unless it retains a right to enter to make inspection and repairs. Garcia v. Dormitory Authority of the State of New York, 195 A.D.2d 288, 599 N.Y.S.2d 600 (1st Dept. 1993).

¶ 4. Plaintiff, who was robbed by an armed assailant, brought an action against the landlord claiming lack of security. In S.M.R.K., Inc. v. 25 West 43rd Street Co., N.Y.L.J., Jan. 7, 1997, page 25, col. 5, Sup. Ct. New York Co.

¶ 5. A lease provided that the lessee would assume the cost of structural changes required by its use of the premises. Where the lessee' use of the premises to sublease office space was the use contemplated by the lease, and the duty to remove asbestos was imposed by a change in governmental policy rather than by the lessee's use of the premises, the landlord was required to absorb the cost of asbestos abatement. Rapid American Corp. v. 888 7th Avenue Associates Limited Partnership, 151 Misc.2d 966, 574 N.Y.S.2d 447 (Sup.Ct. New York Co. 1991).

¶ 6. This section can now form the basis of a an action by an injured police officer against the New York City Transit Authority, even though it merely states a common law duty with respect to premises maintenance (Muncipal Law § 205-e as amended, now allows police officers to sue even though the injury was caused by a violation of a provision prohibiting activities or conditions which increase the dangers inherent in police work). Farrington v. City of New York, 659 N.Y.S.2d 318, 240 A.D.2d 697 (1997). See also Corbisiero v. City of New York, 659 N.Y.S.2d 319, 240 A.D.2d 694 (1997).

¶ 7. A wrongful death suit was brought by the survivors of a police officer who had been shot and killed by a prisoner who stole a service revolver from a police locker room. Plaintiff's theory of recovery was that the locker room was improperly used as a prisoner detention area and that the prisoner had gained access to the locker containing the gun because it was either open or defective. Plaintiffs also alleged that the locker room was maintained in an unsafe condition, in violation of Admin. Code §27-127. The court, however, held that §27-127 could not be a basis for recovery, because decedent was not injured by any condition which could be said to arise from a failure to maintain the premises. Williams v. City of New York, 304 A.D.2d 562, 758 N.Y.S.2d 349 (2d Dept. 2003).

¶ 8. The statutory requirement that buildings be maintained in a safe condition is applicable to the accumulation of water defect that led to plaintiff's accident. Kelly v. City of New York, 6 A.D.3d 188, 774 N.Y.S.2d 520 (1st Dept. 2004).

¶ 9. The statute imposes a nondelegatable duty upon building owners to maintain their premises in a safe condition, but does not apply to a subcontractor/site manager. Weiss v. City of New York, 16 A.D.3d 680, 792 N.Y.S.2d 530 (2d Dept. 2005).

¶ 10. Admin. Code § 27-127 is non-specific, and reflects only a general duty to maintain the premises in a safe condition. Reddy v. 369 Lexington Ave. Co., L.P., 31 A.D.3d 732, 819 N.Y.S.2d 776 (2nd Dept. 2006).

¶ 11. In one case, a tenant claimed that a dangerous mold existed in the apartment, and brought an action against a building owner, managing agent, and contractor for personal injuries allegedly caused by contractor's negligent performance of exterior facade work. The court determined that there was conflicting evidence from the parties' experts, and fact issues were raised with respect to the mold. Specifically, the court questioned whether the mold was directly caused by the water and matter that entered the apartment as a result of the contractor's alleged failure to exercise due care. There was also a fact issue as to whether the owner had notice of the hazard. While the tenant plaintiff repeatedly complained to the owner, it was not clear when the initial complaint was made. If the plaintiff tenant did not complain about the mold until after the onset of respiratory problems, it would have been too late for the owner to take remedial action. Additionally, it would have to be determined whether the mold was a foreseeable consequence of the water and matter that entered plaintiff's apartment while facade work was being done. If the events were foreseeable, then defendant would have had constructive notice of a potential mold hazard. Previous notice of decoloration and knowledge of previous water damage does not constitute notice of mold growth, however. On the other hand, under the statute, the owner is under a non-delegable duty to maintain the premises in a reasonably safe condition, and cannot absolve themselves or responsibility by stating that they are not liable for the negligence of the independent contractor who performed the exterior facade work. Daitch v. Naiman, 25 A.D.3d 458, 807 N.Y.S.2d 95 (1st Dept. 2006).

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NYC Administrative Code 27-128

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ARTICLE 6 MAINTENANCE

§ 27-128 Owner responsibility. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-105.2 added LL 76/1968 § 1

CASE NOTES

¶ 1. Pursuant to the Ad Code of the City of NY § 27-128, an absentee landlord's statutory responsibility for the "safe maintenance of the building and facilities" extends beyond structural defects to the building to transient unsafe

conditions caused by the tenant, where the tenant had contracted to maintain and repair the premises and the landlord maintain the right to reenter to inspect and make repairs; therefore landlord is legally responsible for tenants unsafe stacking of boxes and cartons in the basement storage area. Sergio v. Benjolo N.V., 146 Misc. 2d 1011.

¶ 2. Tenant who is renovating premises in order to sublet is not required to bear the cost of asbestos removal. Landlord is responsible. Rapid-American Corp. v. 888 7th Avenue Assoc., 151 Misc 2d 966 [1991].

¶ 3. There is a special duty imposed on building owners for the safe maintenance of buildings at all times pursuant to Ad Cd §27-128. People v. DiLorenzo, 154 Misc.2d 485, 585 N.Y.S.2d 675 [1991]

¶ 4. An out-of-possession landlord's reservation of right to enter, inspect and make repairs to premises may be deemed to constitute sufficient retention of control to permit finding that landlord had constructive notice of a defective condition. Here, plaintiff's defeated summary judgment that allegedly defective condition was a structural defect which violated defendants' responsibility "for the safe maintenance of the building and its facilities" under Ad Code §27-128. Gantz v. Kurz, 203 AD2d 240, 610 NYS2d 279 (2nd Dept. 1994).

¶ 5. Kilimnik v. Mirage Restaurant, 223 A.D.2d 530, 635 N.Y.S.2d 702 (App.Div. 2nd Dept. 1996). This section will not impose liability against a lessor who is not in possession of the premises. In the absence of a specific statutory duty, the lessor's mere right to enter the leased premises to inspect and repair will not permit the victim of a slip and fall accident to maintain a claim against the lessor.

¶ 6. The statute governing the responsibility of an owner for safe maintenance of a building and its facilities is applicable to the accumulation of water defect that led to plaintiff's accident. Kelly v. City of New York, 6 A.D.3d 188, 774 N.Y.S.2d 520 (1st Dept. 2004).

¶ 7. The statute imposes a nondelegatable duty upon building owners to maintain their premises in a safe condition, but did not to a subcontractor/site manager. Weiss v. City of New York, 16 A.D.3d 680, 792 N.Y.S.2d 530 (2d Dept. 2005).

¶ 8. Admin. Code § 27-128 is non-specific, and reflects only a general duty to maintain the premises in a safe condition. Reddy v. 369 Lexington Ave. Co., L.P., 31 A.D.3d 732, 819 N.Y.S.2d 776 (2nd Dept. 2006).

¶ 9. See Daitch v. Naiman, 25 A.D.3d 458, 807 N.Y.S.2d 95 (1st Dept. 2006), discussed in note 11 to Admin. Code § 27-127.

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ARTICLE 6 MAINTENANCE

§ 27-129 Exterior walls and appurtenances thereof. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section amended L.L. 11/1998 § 1, eff. Mar. 13, 1998

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-105.3 added LL 10/1980 § 1

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NYC Administrative Code 27-130

Administrative Code of the City of New York

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ARTICLE 7 MATERIALS, ASSEMBLIES, FORMS AND METHODS OF CONSTRUCTION

§ 27-130 General requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-106.1 added LL 76/1968 § 1

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NYC Administrative Code 27-131

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ARTICLE 7 MATERIALS, ASSEMBLIES, FORMS AND METHODS OF CONSTRUCTION

§ 27-131 Acceptance requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section amended L.L. 49/1991 § 16, eff. July 1, 1991

(Note § heading and opening par incorrectly omitted from text of amendment)

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-106.2 added LL 76/1968 § 1

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NYC Administrative Code 27-131.1

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§ 27-131.1 Reference Standards.

The appendix to this chapter of the administrative code, known as the "building code reference standards", is adopted and promulgated and shall be known as the "building code rules" of said chapter; except for reference standards RS4-3, RS7-2, and such portions of RS16 not included in the "List of Referenced National Standards". The commissioner shall be empowered to issue or amend the building code reference standards acting in consultation with the fire commissioner on all issues relating to fire safety.

HISTORICAL NOTE

Section added L.L. 49/1991 § 17, eff. July 1, 1991

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NYC Administrative Code 27-132

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ARTICLE 7 MATERIALS, ASSEMBLIES, FORMS AND METHODS OF CONSTRUCTION

§ 27-132 Inspection requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-106.3 added LL 76/1968 § 1

Sub a amended LL 77/1972 § 1

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ARTICLE 7 MATERIALS, ASSEMBLIES, FORMS AND METHODS OF CONSTRUCTION

§ 27-133 Alternate or equivalent materials. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-106.4 added LL 76/1968 § 1

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ARTICLE 8 SERVICE EQUIPMENT

§ 27-134 General requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-107.1 added LL 76/1968 § 1

Amended LL 39/1972 § 3

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NYC Administrative Code 27-135

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ARTICLE 8 SERVICE EQUIPMENT

§ 27-135 Acceptance requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-107.2 added LL 76/1968 § 1

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NYC Administrative Code 27-136

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ARTICLE 8 SERVICE EQUIPMENT

§ 27-136 Inspection requirements. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-107.3 added LL 76/1968 § 1

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NYC Administrative Code 27-137

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ARTICLE 8 SERVICE EQUIPMENT

§ 27-137 Alternate or equivalent equipment. [Repealed]

HISTORICAL NOTE

Section repealed L.L. 33/2007 § 7, eff. July 1, 2008. [See Title 28 footnote]

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-107.4 added LL 76/1968 § 1

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NYC Administrative Code 27-165

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ARTICLE 13 APPLICATIONS FOR FOUNDATION AND EARTHWORK PERMITS [Repealed]

§ 27-165 Notice to adjoining owners.

No foundation or earthwork permit shall be issued unless and until at least five days prior written notice of the permit application shall have been given by the applicant to the owners of all adjoining lots, buildings and service facilities which may be affected by the proposed foundation work or earthwork operations, except that any foundation or earthwork that is to be done with the use of explosives shall also be subject to the notice requirements set forth in section 27-4038.1 of this code.

HISTORICAL NOTE

Section amended L.L. 65/2007 § 1, eff. Apr. 29, 2008.

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NYC Administrative Code 27-169

Administrative Code of the City of New York

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ARTICLE 14 APPLICATIONS FOR DEMOLITION AND REMOVAL PERMITS [Repealed]

§ 27-169 Notice to adjoining owners.

No demolition or removal permit shall be issued unless and until at least five days prior written notice of the permit application shall have been given by the applicant to the owners of all adjoining lots, buildings and service facilities which may be affected by the proposed demolition or removal work, except that any demolition or removal work that is to be done with the use of explosives shall also be subject to the notice requirements set forth in section 27-4038.1 of this code.

HISTORICAL NOTE

Section amended L.L. 65/2007 § 2, eff. Apr. 29, 2008.

NYC Administrative Code 27-228.5

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 1 ADMINISTRATION AND ENFORCEMENT

ARTICLE 26 SPECIAL FILING REQUIREMENTS

§ 27-228.5 General requirements.

(a) Owners of all existing buildings which are required to comply with the provisions of subdivision (a) of section 27-353.1 (elevator vestibules), section 27-381 and subdivision (b) of section 27-382 (exit lighting), subdivision (b) of section 27-384 (exit signs), section 27-396.3 (signs in sleeping rooms), section 27-777.2 (ventilation in J-1 buildings), subdivision (b) of section 27-929 (sprinklers, fire alarm systems, fire command and communication systems), paragraph two of subdivision (c) of section 27-989 (elevators in readiness), section 27-996.1 (locks on hoistway doors) and section 27-996.2 (firemen's service) shall file with the department a report on or before April first, nineteen hundred eighty-seven certifying to the installation of the required fire protection systems in accordance with approved plans and appropriate permits prior to such date. Owners of all existing buildings not already subject to the requirements of article nine of subchapter six of this chapter as of January eighth, nineteen hundred seventy-three shall file with the department a report on or before October first, nineteen hundred eighty-five certifying to the installation of stair and elevator signs meeting the requirements of article nine of subchapter six of this chapter prior to such date. Owners of all existing buildings that are required to comply with the provisions of subdivision (c) of section 27-384 (power source of exit signs) shall file with the department, on or before July 1, 2007, a report of an architect or engineer certifying that all required exit and/or directional signs are connected to an emergency power source or to storage battery equipment in compliance with such subdivision except that no such report shall be required to be filed if an owner of a building

submits an affidavit to the department, within ninety days after the effective date of this sentence, certifying that all required exit and/or directional signs are connected to an emergency power source or to storage battery equipment as required by such subdivision. Such reports shall be on such forms and in such manner as prescribed by the commissioner. Failure to file such report by such dates shall be a violation of this section, which shall be punishable pursuant to section 26-125 of title twenty-six of the administrative code.

(b) (1) Owners of all buildings one hundred feet or more in height required to comply with the provisions of subdivision (a) of section 27-929.1 (sprinklers) shall file with the department on or before July 1, 2019 a final report prepared by an architect or engineer certifying to the installation of the required sprinklers in accordance with such provisions and, pending the filing of such final report, such owner shall be required to file the following interim reports as described below. Failure to file such final report and/or, where required, such interim reports by the dates indicated or within any extended period of time granted by the commissioner pursuant to paragraph (2) of this subdivision shall be a violation of this section, which shall be punishable pursuant to section 26-125 of the code. Such reports shall be on such forms and in such manner as prescribed by the commissioner and shall be filed as follows:

Unless a final report is filed on or prior to such date, a one year report shall be filed no later than July 1, 2005. The one year report shall contain an affidavit by the owner of the building acknowledging that sprinklers are required to be installed in such building on or before July 1, 2019 in compliance with subdivision (a) of section 27-929.1 of this code and indicating his or her intention to comply with such requirement.

Unless a final report is filed on or prior to July 1, 2011, a seven year report shall be filed no earlier than January 1, 2011 and no later than July 1, 2011. Such seven year report shall contain a certification by an architect or engineer of the percentage of the building in which sprinklers have been installed as of the date of such report and an implementation plan prepared by such architect or engineer detailing when and how the remaining portions of the building will be made fully compliant.

Unless a final report is filed on or prior to July 1, 2018, a fourteen year report shall be filed no earlier than January 1, 2018 and no later than July 1, 2018. Such fourteen year report shall contain a certification by an architect or engineer of the percentage of the building in which sprinklers have been installed as of the date of such report and an implementation plan, prepared by such architect or engineer detailing when and how the remaining portions of the building will be made fully compliant.

Except as otherwise provided in paragraph (2) of this subdivision, a final report shall be filed no later than July 1, 2019. Such final report shall contain a certification by an architect or engineer that the building is fully compliant.

(2) Where the owner of a building is unable to comply with the requirements of subdivision (a) of section 27-929.1 on or before July 1, 2019 because of undue hardship, and where such owner timely filed all interim reports as required in paragraph (1) of this subdivision and has obtained approval of all required applications, plans and permits relating to the required work, such owner may submit to the department an application for additional time to comply with such requirements. Such application shall be submitted to the department on or before July 1, 2018, along with supporting documents indicating the basis for such claim of undue hardship. The commissioner shall appoint a committee consisting of employees of the department and the fire department and a representative of the real estate industry to review such application. Such committee shall issue findings and recommendations relating to the application. After reviewing such findings and recommendations, if the commissioner finds that the owner has made a good faith effort to complete the required work and has substantiated his or her claim of undue hardship, the commissioner may brant an extension of time in which to complete the work and submit the final report.

HISTORICAL NOTE

Section amended L.L. 26/2004 § 3, eff. Oct. 22, 2004 except that prior

to such date the commissioner of buildings and the fire commissioner

may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-125.1 added LL 16/1984 § 12

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-229

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 2 DEFINITIONS

ARTICLE 1 GENERAL

§ 27-229 Application of terms.

The words and terms listed in this subchapter shall have the meanings given herein. Where terms are not defined they shall have their ordinarily accepted meanings or such as the context may imply.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-200.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-230

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 2 DEFINITIONS

ARTICLE 1 GENERAL

§ 27-230 Definitions in reference standards.

Definitions that appear in any building code reference standard shall apply to the provisions of that reference standard only.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-200.2 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-231

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 2 DEFINITIONS

ARTICLE 1 GENERAL

§ 27-231 Tense, gender, and number.

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words used in the singular include the plural, and the plural the singular.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-200.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-232

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 2 DEFINITIONS

ARTICLE 2 DEFINITIONS

§ 27-232 Definitions.

*8 Words that are capitalized are defined in this section.

ACCESSIBLE. A building or portion thereof and the accessory public areas thereof are accessible when they comply with subarticle two of article two of subchapter four of chapter one of title twenty-seven of this code and can be approached, entered and used by people having physical disabilities. (Definition added L.L. 58/1987 § 2.)

ACCESSIBLE ROUTE. A continuous unobstructed path connecting all accessible spaces and rooms in a building that can be negotiated by all categories of people having physical disabilities. Interior accessible routes may include corridors, doorways, floors, ramps, elevators, lifts and clear floor space adjacent to fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. (Definition added L.L. 58/1987 § 2.)

ACCESSORY BUILDING. A building, the use or occupancy of which is incidental to that of the main building.

ACCESSORY USE. A use or occupancy incidental to the principal use or occupancy of a building.

ACCESS STAIR. A stair between two floors, which does not serve as a required exit. (See EXTERIOR STAIR

and INTERIOR STAIR).

ADAPTABLE DWELLING UNITS. Dwelling units which are constructed on an accessible route and equipped as set forth in reference standard RS 4-6, so that they may be converted to be used, with a minimum of structural change, by all categories of people having physical disabilities. (Definition added L.L. 58/1987 § 3.)

ADDITION. An extension or increase in floor area or height of a building that increases its exterior dimensions.

ADJOINING GRADE ELEVATION. The average elevation of the final grade adjoining all exterior walls of a building, calculated from grade elevations taken at intervals of ten feet around the perimeter of the building.

AIR CONDITIONING. The process by which the temperature, humidity, movement, cleanliness, and odor of air circulated through a space are controlled simultaneously.

AIR-SUPPORTED STRUCTURE. A structure consisting of skin diaphragms made of flexible material, which achieves its shape, support, and stability from internal air pressure.

ALLOWABLE SOIL PRESSURE. The maximum stress permitted in soil of a given type and under given conditions.

ALLOWABLE STRESS. The maximum stress permitted at a given point in a structural member under given conditions.

ALTERATION. Any addition, or change or modification of a building, or the service equipment thereof, that affects safety or health and that is not classified as a minor alteration or ordinary repair. The moving of a building from one location or position to another shall be deemed an alteration.

AMUSEMENT ATTRACTION. A game of chance or skill or similar activity in which the public participates as a form of amusement.

AMUSEMENT DEVICE. A mechanically operated device or structure, open to the public, used to convey persons in any direction as a form of amusement.

APARTMENT HOUSE. (See MULTIPLE DWELLING.)

APPROVED. When used in connection with plans, materials and equipment shall mean approved by the commissioner; when used in connection with materials and equipment, shall also mean previously approved by the board, unless such approval is amended or repealed by the commissioner; otherwise shall mean approved by the department or agency indicated by the text. (Definition amended L.L. 49/1991 § 18, eff. July 1, 1991.)

ARCHITECT. A person licensed to practice the profession of architecture under the education law of the state of New York.

AREA OF REFUGE. A floor area to which egress is made through a horizontal exit or supplemental vertical exit.

AREAWAY. A space below grade, adjacent to a building, open to the outer air and enclosed by walls.

ASSEMBLY SPACE. Any part of a place of assembly, exclusive of a stage, that is occupied by numbers of persons during the major period of occupancy. Every tier of seating shall be considered a separate assembly space.

ATRIUM. A vertical opening or series of openings within a building connecting three or more floors, which may be covered at the top, and which is used for purposes other than an enclosed stairway, elevator hoistway or utility

shaft.

ATTIC. The space between the ceiling framing of the topmost story and the underside of the roof framing.

AUTOMATIC. As applied to an opening protective, shall mean a door, window, damper, or other device, and its assembly, which is normally open and is designed to close automatically when subjected to a predetermined temperature, rate of temperature rise, or abnormal smoke condition.

AUTOMATIC DRY STANDPIPE SYSTEM. A standpipe system in which all piping is filled with air, either compressed or at atmospheric pressure. Water enters the system through a control valve actuated either automatically by the reduction of air pressure within the system or by the manual activation of a remote control located at each hose station.

AUTOMATIC DRY PIPE SPRINKLER SYSTEM. A sprinkler system in which the piping up to the sprinkler heads is filled with air, either compressed or at atmospheric pressure, with the water supply controlled by a Type A or Type B dry pipe valve.

AUTOMATIC FIRE PUMP. A pump that maintains a required water pressure in a fire extinguishing system and which is actuated by a starting device adjusted to cause the pump to operate when the pressure in the system drops below a predetermined pressure, and to stop the pump when the pressure is restored.

AUTOMATIC OPERATION. As applied to an elevator, shall mean operation whereby the starting of the car is effected in response to the momentary actuation of operating devices at the landing, and/or of operating devices in the car identified with the landings, and/or in response to an automatic starting mechanism, and whereby the car is stopped automatically at the landings.

AUTOMATIC WET PIPE SPRINKLER SYSTEM. A sprinkler system in which all piping and sprinkler heads are at all times filled with water under pressure which is immediately discharged when a sprinkler head operates, with the water continuing to flow until the system is shut off.

AUTOMOTIVE LIFT. A vehicle-lifting device, the purpose of which is to raise an entire vehicle to provide accessibility for under-chassis service.

AUTOMOTIVE REPAIR SHOP. A building or space in which motor vehicles are repaired.

AUTOMOTIVE SERVICE STATION. A building, space, or premises used for the storage and sale of motor fuels, and which may also have facilities for lubrication, minor repairs, or washing of motor vehicles.

BACKFLOW (Water Supply). The flow of water or other substances into the distribution pipes of a potable water supply from any source other than the intended source.

BALLOON FRAME. Light timber construction in which the exterior walls consist of studs that are either continuous through floors or interrupted only by thickness of plates.

BASEMENT. A story partly underground, but having less than one-half its clear height (measured from finished floor to finished ceiling) below the curb level; except that where the curb level has not been legally established, or where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevation. (See CELLAR.)

BEARING. As applied to a wall or partition, shall mean supporting any vertical load in addition to its own weight.

BELT-DRIVE MACHINE. As applied to an elevator, shall mean an indirect-drive machine having a single belt

or multiple belts as the connecting means.

BOARD. The board of standards and appeals of the city of New York.

BOARDER (ROOMER, LODGER). An individual living within a household who pays a consideration for such residence and does not occupy such space as an incident of employment therein.

BREEZEWAY. A structure open to the outdoors consisting of a roof, roof supports, and floor, connecting a garage or other accessory building with a dwelling.

BUILDING. An enclosed structure including service equipment therein. The term shall be construed as if followed by the phrase "structure, premises, or part thereof" unless otherwise indicated by the text.

BUILDING HOUSE DRAIN. That part of the lowest piping of a drainage system that receives the discharge from the soil, waste, and other drainage pipes and conveys it to the building house sewer by gravity. The building house drain shall be considered to extend five feet outside the exterior wall of the building.

BUILDING HOUSE DRAIN (COMBINED). A building house drain that conveys storm water in combination with sewage or other drainage.

BUILDING HOUSE DRAIN (SANITARY). A building house drain that carries sewage only.

BUILDING HOUSE DRAIN (STORM). That part of the lowest piping of a storm drainage system that receives clear water drainage from leaders, surface run-off, ground water, subsurface water, condensate, cooling water, or other similar storm or clear drainage and conveys it to the building house storm sewer by gravity. The building house storm drain shall be considered to extend five feet outside the exterior wall of the building.

BUILDING HOUSE SEWER. That part of the horizontal piping of a drainage system that extends from the end of the building house drain and that receives the discharge of the building house drain and conveys it to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

BUILDING HOUSE SEWER (COMBINED). A building house sewer that conveys sewage in combination with storm water and other clear water wastes.

BUILDING HOUSE SEWER (SANITARY). A building house sewer that carries sewage only.

BUILDING HOUSE STORM SEWER. That part of the horizontal piping of a storm drainage system that extends from the building house storm drain to the public storm sewer, combined sewer, or other point of disposal.

BUILDING SECTION. A room, floor, group of floors, wing, or any other portion of a building contained within fire divisions.

BUILDING SUB-HOUSE DRAIN. That portion of a house drainage system that cannot drain by gravity into the building house sewer.

BULKHEAD. An enclosed structure on or above the roof of any part of a building, enclosing a shaft, stairway, tank, or service equipment, or other space not designed or used for human occupancy. (See PENTHOUSE and ROOF STRUCTURE.)

CABARET. The term cabaret shall mean any room, place or space in which any musical entertainment, singing, dancing or other similar amusement is permitted in connection with an eating and drinking establishment.

CABLEWAY. A power operated system for moving loads in a generally horizontal direction in which the loads

are conveyed on an overhead cable, track or carriage.

CAR DOOR OR GATE. As applied to an elevator, shall mean the sliding portion of the car that closes the opening giving access to the car.

CAR DOOR OR GATE SWITCH. As applied to an elevator, shall mean an electrical device, the function of which is to prevent operation of the driving machine by the normal operating device unless the car door or gate is in the closed position.

CAR-SWITCH OPERATION. Operation of an elevator wherein the movement and direction of travel of the car are directly and solely under the control of the operator by means of a manually operated car switch or of continuous-pressure buttons in the car.

CASING-OFF. The elimination of the frictional forces between a portion of a pile and the surrounding soil by use of a sleeve between the pile and the soil.

CATCH PLATFORM. A platform or other construction projecting from the face of a building, supported therefrom, and used to intercept the fall of objects and to protect individuals and property from falling debris.

CELLAR. A story partly or wholly underground, but having one-half or more of its clear height (measured from finished floor to finished ceiling) below the curb level; except that where the curb level has not been legally established, or where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevation. Cellars shall not be counted as stories in measuring the height of buildings. (See BASEMENT.)

CERTIFICATE OF OCCUPANCY. (See article twenty-two of subchapter one of this chapter.)

CHAIN-DRIVE MACHINE. As applied to an elevator, shall mean an indirect-drive machine having a chain as the connecting means.

CHARGING CHUTE (INCINERATOR). An enclosed vertical passage through which refuse is fed to an incinerator.

CHARGING GATE (INCINERATOR). A gate in an incinerator used to control the flow of combustion gases into the charging chute and the entry of refuse into the combustion chamber.

CHIMNEY. A vertical enclosure containing one or more flues used to remove hot gases from burning fuel, refuse, or from industrial processes.

CHIMNEY CONNECTOR. A pipe or metal breeching that connects combustion equipment to a chimney.

CITY. The city of New York.

CLOSED SHAFT. A shaft enclosed at the top.

COATINGS, FIRE-RETARDANT. A material applied to the surface of a building material to improve its flame spread rating.

COLLECTING SAFE AREA. A safe area that receives occupants from the assembly space it serves as well as from other safe areas.

COMMISSIONER. The commissioner of buildings of the city of New York, or his or her duly authorized representative.

COMPRESSOR (REFRIGERATION). A machine used for the purpose of compressing a refrigerant.

CONCENTRATED LOAD. A conventionalized representation of an element of dead or live load whereby the entire load is assumed to act either at a point or within a limited area.

CONCURRENT LOADS. Two or more elements of dead or live load that, for purposes of design, are considered to act simultaneously.

CONSTRUCTION. Any or all work or operations necessary or incidental to the erection, demolition, assembling, installing, or equipping of buildings, or any alterations and operations incidental thereto. The term "construction" shall include land clearing, grading, excavating, and filling. It shall also mean the finished product of any such work or operations.

CONSTRUCTION CLASS (GROUP). The category in which a building or space is classified by the provisions of subchapter three of this chapter, based on the fire-resistance ratings of its construction elements.

CONSOLE LIFT. A section of the floor area of a theater or auditorium that can be raised and lowered.

CONTRACTOR. A person undertaking construction.

CONTROLLED INSPECTION. (See Section 27-132 of subchapter one of this chapter.)

CORRIDOR. An enclosed public passage providing a means of access from rooms or spaces to an exit. (See EXIT PASSAGEWAY.)

COURT. An inner court or outer court.

CRANE. A machine for lifting or lowering a load and moving it horizontally which utilizes wire rope and in which the hoisting mechanism is an integral part of the machine.

CROSS AISLE. An aisle in a place of assembly usually parallel to rows of seats, connecting other aisles or an aisle and an exit.

CROSS-CONNECTION (FIRE EXTINGUISHING SYSTEM). Piping between risers and siamese connections in a standpipe or sprinkler system.

CROSS-CONNECTION (POTABLE WATER SYSTEM). A physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water, and the other of which contains water of questionable safety, or steam, gases, or chemicals whereby there can be a flow from one system to another.

CURB LEVEL. The legally established level on the curb in front of a building, measured at the center of such front. When a building faces on more than one street, curb level shall mean the average of the legally established levels of the curbs at the center of each front.

CURB LINE. The line coincident with the face of the street curb adjacent to the roadway.

DATUM. (See section 27-158 of subchapter one of this chapter.)

DEAD END. A portion of a corridor in which the travel to an exit is in one direction only.

DEAD LOAD. Materials, equipment, constructions, or other elements of weight supported in, on, or by the building (including its own weight) that are intended to remain permanently in place.

DECIBEL. A unit of measurement of the loudness of sound. A division of a logarithmic scale for expressing the

ratio of two amounts of power or energy. The number of decibels denoting such a ratio is ten times the logarithm of the ratio.

DELUGE SPRINKLER SYSTEM. An open head sprinkler system without water in the system piping, with the water supply controlled by an automatic valve operated by smoke or heat-responsive devices installed throughout the sprinklered area, and independent of the sprinkler heads.

DEMOLITION. The dismantling or razing of all or part of a building, including all operations incidental thereto.

DEPARTMENT. The department of buildings of the city of New York.

DERRICK. An apparatus consisting of a mast or equipment members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes, for lifting or lowering a load and moving it horizontally.

DRAINAGE SYSTEM. All the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a legal point of disposal, but shall not include the mains of public sewer system or private or public sewage-treatment or disposal plant.

DRAFT CURTAIN. A noncombustible curtain suspended in a vertical position from a ceiling for the purpose of retarding the lateral movement of heated air, gases, and smoke along the ceiling in the event of fire.

DRAFT HOOD. A device placed in and made part of a chimney, vent connector, or combustion equipment, to (1) insure the ready escape of the products of combustion in the event of no draft, back-draft, or stoppage beyond the draft hood, (2) prevent a back-draft from entering the equipment, or (3) neutralize the effect of excessive stack action of the chimney flue upon the operation of the equipment.

DRY PIPE VALVE. A valve that automatically controls the water supply to a sprinkler system so that the system beyond the valve is normally maintained dry.

DUCT (VENTILATION). A pipe, tube, conduit, or an enclosed space within a wall or structure, used for conveying air.

DUMBWAITER. A hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, whose total inside height whether or not provided with fixed or movable shelves does not exceed four feet, the capacity of which does not exceed five hundred pounds, and that is used exclusively for carrying materials.

DWELLING. Any building occupied in whole or in part as the temporary or permanent home or residence of one or more families.

DWELLING UNIT. One or more rooms in a dwelling or building that are arranged, designed, used or intended for use by one or more families.

ELECTRICALLY SUPERVISED. As applied to a control circuit, shall mean that in the event of interruption of the current supply or in the event of a break in the circuit, a specific signal will be given.

ELEVATOR. A hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction, and that serves two or more floors of a building.

ELEVATOR VESTIBULE. A room or space enclosed with noncombustible smoke barrier partitions with smoke stop doors conforming to subdivision (c) of section 27-371. Except for such smoke stop doors, openings to elevators and to exits shall be the only other door openings permitted in the enclosing partitions.

EMERGENCY INTERLOCK RELEASE SWITCH. As applied to an elevator, shall mean a device to make inoperative, in case of emergency, door or gate electric contacts or door interlocks.

ENGINEER. A person licensed to practice the profession of engineering under the education law of the state of New York.

EQUIVALENT UNIFORM LOAD. A conventionalized representation of an element of dead or live load, used for the purposes of design in lieu of the actual dead or live load.

ESCALATOR. A power driven, inclined, continuous stairway used for raising or lowering passengers.

EXISTING BUILDING. A building, whether high rise or low rise:

(1) Which on April first, nineteen hundred eighty-four is complete or under construction, or

(2) For which an application for approval of plans has been filed with the department prior to October first, nineteen hundred eighty-four and construction commenced prior to April first, nineteen hundred eighty-six, provided that those requirements of this code applicable to existing buildings classified in the same occupancy group as the proposed building shall be complied with in accordance with the time limitations set forth in this code.

EXISTING HIGH RISE BUILDING. A building, classified as a high rise structure:

(1) Which on April first, nineteen hundred eighty-four is complete or under construction, or

(2) For which an application for approval of plans has been filed with the department prior to October first, nineteen hundred eighty-four and construction commenced prior to April first, nineteen hundred eighty-six, provided that those requirements of this code applicable to existing buildings classified in the same occupancy group as the proposed building shall be complied with in accordance with the time limitations set forth in this code.

(1) EXISTING OFFICE BUILDING, ONE HUNDRED FEET OR MORE IN HEIGHT. An office building

one hundred feet or more in height or a building classified in occupancy group E, one hundred feet or more in height:

(1) which on January eighteenth, nineteen hundred seventy-three is complete or under construction, or

(2) for which plans have been filed before January eighteenth, nineteen hundred seventy-three and construction commenced on or before January eighteenth, nineteen hundred seventy-four, or

(3) for which plans are filed on or before January eighteenth, nineteen hundred seventy-four and construction commenced on or before January eighteenth, nineteen hundred seventy-five and further provided that all the requirements for such existing office buildings are fully complied with in the course of construction and before completion.

EXIT. A means of egress from the interior of a building to an open exterior space which is provided by the use of the following, either singly or in combination: exterior door openings, vertical exits, exit passageways, horizontal exits, interior stairs, exterior stairs, fire towers or fire escapes; but not including access stairs, aisles, corridor doors or corridors.

EXIT PASSAGEWAY. A horizontal extension of a vertical exit, or a passage leading from a yard or court to an open exterior space.

EXTERIOR SEPARATION. The shortest distance across an unobstructed outdoor space measured from the

furthest projection of the exterior wall of a building to an interior lot line or to a line halfway between the wall and that of any other building on the same lot, or to the centerline of an adjacent street or other public space.

EXTERIOR STAIR. A stair open to the outdoor air, that serves as a required exit. (See ACCESS STAIR and INTERIOR STAIR.)

FACING. As applied to a sign, shall mean the surface of the sign, upon, against or through which the message of the sign is exhibited.

FAMILY. A single individual; or two or more individuals related by blood or marriage or who are parties to a domestic partnership, and living together and maintaining a common household, with not more than four boarders, roomers or lodgers; or a group of not more than four individuals, not necessarily related by blood, marriage or because they are parties to a domestic partnership, and maintaining a common household.

FIRE ALARM. A system, automatic or manual, arranged to give a signal indicating a fire emergency.

FIRE AREA. A floor area enclosed by fire divisions and/or exterior walls.

FIRE CANOPY. A solid horizontal projection, extending beyond the exterior face of a building wall, located over a wall opening so as to retard the spread of fire through openings from one story to another.

FIRE DISTRICTS. The geographical territories established under subchapter four of this chapter for the regulation of occupancy groups and construction classes within such districts.

FIRE DIVISION. Any construction, vertical, horizontal or otherwise, having the required fire-resistance rating and structural stability under fire conditions to provide a fire barrier between adjoining buildings or between adjoining or superimposed fire areas or building sections within the same building.

FIRE DOOR. An opening protective in the form of a door and its assembly.

FIRE PROTECTION PLAN. A report containing a narrative description of the life and fire safety systems and evacuation system for a structure, in accordance with section 27-228.2 of this title.

FIRE-PROTECTION RATING. The time in hours or fractions thereof that an opening protective and its assembly will withstand fire exposure as determined by a fire test made in conformity with specified standards of subchapter five of this chapter.

FIRE-RESISTANCE RATING. The time in hours or fractions thereof that materials or their assemblies will withstand fire exposure as determined by a fire test made in conformity with a specified standard of subchapter five of this chapter.

FIRE RETARDANT TREATED WOOD. Wood that has been pressure impregnated with chemicals so as to reduce its com- bustibility.

FIRE SAFETY PLAN. A description of the fire drill and evacuation procedures for a structure which is required to be submitted to the fire department in accordance with the requirements of section 27-4267 of the administrative code and the regulations of the fire commissioner.

FIRE SECTION. A sprinklered area within a building that is separated from other areas by noncombustible construction having at least a twohour fire-resistance rating.

FIRE SEPARATION. Any construction, vertical, horizontal, or otherwise, having the required fire-resistance rating to provide a fire barrier between adjoining rooms or spaces within a building, building section, or fire area.

FIRESTOP. A solid or compact, tight closure to retard the spread of flames or hot gases within concealed spaces.

FIRE SUPPRESSION PIPING SYSTEM. Any system including any and all equipment and materials in connection therewith the purpose of which is to control, to contain, to suppress or to extinguish fire.

FIRE WALL. A fire division in the form of a wall.

FIRE WINDOW. An opening protective in the form of a window and its assembly.

FLAME SPREAD RATING. The measurement of the comparative rate of propagation of flame over the surface of a material as determined by a fire test made in accordance with a specified standard in subchapter five of this chapter.

FLAMMABLE. Capable of being easily ignited when exposed to flame, and which burns intensely, or has a rapid rate of flamespread.

FLASH POINT. The lowest temperature at which a liquid gives off sufficient vapor to form an ignitable mixture with air near the surface of the liquid or within the vessel used.

FLOOR AREA. The projected horizontal area inside of walls, partitions, or other enclosing construction.

FLOOR AREA (NET). When used to determine the occupant load of a space, shall mean the horizontal occupiable area within the space, excluding the thickness of walls, and partitions, columns, furred-in spaces, fixed cabinets, equipment, and accessory spaces such as closets, machine and equipment rooms, toilets, stairs, halls, corridors, elevators and similar unoccupied spaces.

FLUE. An enclosed passageway in a chimney to carry products of combustion to the outer air.

FOLDED PLATE. An assembly consisting of one or more units, each unit of which is formed by two or more individually planar elements, termed plates, intersecting at angles.

FOOTING. A foundation element consisting of an enlargement of a foundation pier or foundation wall, wherein the soil materials along the sides of and underlying the element may be visually inspected prior to and during its construction.

FOUNDATION (BUILDING). A construction that transfers building loads to the supporting soil.

FOUNDATION PIER. A foundation element consisting of a column embedded into the soil below the lowest floor to the top of a footing or pile cap. Where a pier bears directly on the soil without intermediate footings or pile caps, the entire length of the column below the lowest floor level shall be considered as a foundation pier. Foundation piers shall be limited to piers so constructed that the entire surface of the sides of the pier and the bearing material under the lower end of the pier can be visually inspected prior to or during construction, but which will be concealed in the final work. Piers below the lowest floor or basement level that will be exposed and open to inspection in the final work shall be considered as columns. Types of construction wherein the sides cannot be visually inspected shall be considered as piling.

FOUNDATION WALL. A wall extending below grade.

FRAMEWORK. As applied to a sign, shall mean the supports, uprights and bracing of the sign.

FRESH AIR. Outdoor air.

FRONT. As applied to building location on a lot, shall mean the distance between lines drawn through the most

remote points of the building perimeter, projected at right angles to a frontage space.

FRONTAGE SPACE. A street; or an open space outside of a building, not less than thirty feet in any dimension, that is accessible from a street by a driveway, lane, or alley at least twenty feet in width, and that is permanently maintained free of all obstructions that might interfere with its use by the fire department.

FRONT YARD. A yard extending along the full length of a street line.

GAS DISTRIBUTION PIPING. All piping from the house side of the gas meter piping that distributes gas supplied by a public utility to all fixtures and apparatus used for illumination or fuel in any building.

GAS METER PIPING. The piping from the gas service line valve to the outlet of the meter-regulator set or the meter if no regulator is required.

GAS PIPING SYSTEMS. The gas service piping, meter piping and distribution piping.

GAS SERVICE LINE VALVE. The valve located at or below grade on the supply side of the meter or service regulator, if a service regulator is required. If a plug type valve is used it shall be constructed so as to prevent the core from being blown out by the pressure of the gas. In addition, it shall be of a type capable of being locked in the off position by the local gas utility.

GAS SERVICE PIPING. The supply piping from the street main up to and including the gas service line valve.

GRADE. The finished surface of the ground, either paved or unpaved.

GRADE BEAM. A beam, at, near, or below grade, spanning between footings, pile caps or foundation piers, and supporting walls or other elements of a building.

GRANDSTAND. A structure used to support spectators, either standing or seated, usually outdoors.

GROUND SIGN. A sign supported by uprights or braces in or upon the surface of the ground.

GROUP HOME. A facility for the care and maintenance of not less than seven nor more than twelve children, operated pursuant to subdivision (c) of section three hundred seventy-four of the social services law, or other provisions of applicable laws, and supervised by the New York state board of social welfare.

HABITABLE ROOM. A residential room or space, having the minimum dimensions required by section 27-751 of article six of subchapter twelve of this chapter in which the ordinary functions of domestic life are carried on, and which includes bedrooms, living rooms, studies, recreation rooms, kitchens, dining rooms and other similar spaces, but does not include closets, halls, stairs, laundry rooms, or bathrooms.

HEIGHT (BUILDINGS). The vertical distance from the curb level to the highest point of the roof beams in the case of flat roofs, or to a point at the average height of the gable in the case of roofs having a pitch of more than one foot in four and one-half feet; except that where the curb level has not been legally established, or where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevation.

HEREAFTER. On or after the effective date of this code.

HERETOFORE. Before the effective date of this code.

HIGH RISE. A structure seventy-five feet or more in height.

HOISTWAY. An enclosed or partly enclosed shaft used for the travel of an elevator, dumbwaiter, platform or bucket.

HOISTWAY DOOR. As applied to an elevator, shall mean the hinged or sliding portion of a hoistway enclosure which closes the opening giving access to a landing.

HOISTWAY DOOR INTERLOCK. A device used to prevent the operation of the driving machine of an elevator by the normal operating device unless the hoistway door is locked in the closed position, and also used to prevent the opening of the hoistway door from the landing side unless the car is within the landing zone and is either stopped or being stopped.

HOISTING MACHINE. A power operated machine used for lifting or lowering a load utilizing a drum and wire rope, excluding elevators. This shall include but not be limited to a crane, derrick and cableway.

HORIZONTAL EXIT. (See Section 27-373 of article five of subchapter six of this chapter.)

ILLUMINATED SIGN. A sign designed or arranged to give forth or reflect light from an attached artificial source.

IMPACT LOAD. A kinetic load of short duration such as that resulting from moving machinery, elevators, craneways, vehicles, etc.

INDEPENDENT POLE SCAFFOLD. A scaffold supported by multiple rows of uprights, and not depending on the building for support.

INDIRECT WASTE PIPE. A drain pipe used to convey liquid wastes which does not connect directly with the drainage system, but which discharges into the house drainage system through an air break into a trap, fixture, receptacle, or interceptor.

INDUSTRIAL LIFT. A hoisting and lowering mechanism of a nonportable power-operated type for raising or lowering material vertically, operating entirely within one story of a building.

INDUSTRIAL WASTE. Liquid, gaseous or solid substances, or a combination thereof, resulting from any process of industry, manufacturing, trade or business, or from the development or recovery of any natural resource.

INNER COURT. Any open area, other than a yard or portion thereof, that is unobstructed from its lowest level to the sky and that is bounded by either building walls, or building walls and one or more lot lines other than a street line or building walls, except for one opening on any open area along an interior lot line that has a width of less than thirty feet at any point.

INTERIOR LOT LINE. A lot line other than a street line.

INTERIOR STAIR. A stair within a building, that serves as a required exit. (See ACCESS STAIR and EXTERIOR STAIR.)

LAGGING (PILE). Pieces of timber or other material attached to the sides of piles to increase resistance to penetration through soil.

LAMELLA. Shell construction in which the shell is formed by a lattice of interlacing members.

LANDING DOOR. (See HOISTWAY DOOR.)

LEADER. A vertical drainage pipe for conveying storm water from roof or gutter drains to a building house

storm drain, building house drain (combined), or other means of disposal. The leader shall include the horizontal pipe to a single roof drain or gutter drain.

LESSEE. The person in possession of a building under a lease from the owner thereof.

LICENSE. A written document issued by the commissioner authorizing a person to perform specific acts in or in connection with the construction or alteration of buildings, or the installation, alteration, and use and operation of service equipment therein.

LIVE LOAD. All occupants, materials, equipment, constructions or other elements of weight supported in, on or by a building that will or are likely to be moved or relocated during the expected life of the building.

LOAD-BEARING. (See BEARING.)

LOADING RAMP. A hinged, mechanically operated lifting device used for spanning gaps and/or adjusting heights between loading surfaces, or between loading surfaces and carriers.

LODGER. (See BOARDER.)

LOT. A portion or parcel of land considered as a unit. A zoning lot.

LOT LINE. A line dividing one land unit from another, or from a street or other public space. A boundary line of a zoning lot.

LOW RISE. A structure less than seventy-five feet in height.

MALL. An enclosed or roofed area used as a pedestrian circulation space and connecting no more than three stories or portions of stories of a building or buildings housing single and/or multiple tenants.

MANUAL FIRE PUMP. A pump that feeds water into a fire extinguishing system that must be started by either the building personnel or members of the fire department.

MARQUEE SIGN. A sign placed flat against the front or side fascia of a marquee.

MECHANICAL VENTILATION. The process of introducing outdoor air into, or removing vitiated air from a building by mechanical means. A mechanical ventilating system may include air heating, air cooling, or air conditioning components.

MECHANIZED PARKING GARAGE EQUIPMENT. Special devices in mechanical parking garages that operate in either stationary or horizontal moving hoistways, that are exclusively for the conveying of automobiles, and in which no persons are normally stationed on any level other than the receiving level and in which each automobile during the parking process is moved by means of a power driven transfer device, on and off the elevator directly into parking spaces or cubicles.

MEZZANINE. An intermediate floor between the floor and ceiling of any space. When the total gross floor area of all mezzanines occurring in any story exceeds thirty-three and one-third percent of the gross floor area of that story such mezzanine shall be considered as a separate story.

MINOR ALTERATIONS. (See Section 27-124 of article five of subchapter one of this chapter.)

MORTAR (GROUT). A mixture of cementitious materials, fine-aggregates and water.

MOTOR VEHICLE. A conveyance propelled by an internal combustion engine and having a fuel storage tank

capacity of more than two gallons.

MOVING WALK. A passenger-carrying device on which persons stand or walk, and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

MULTIPLE DWELLING. A building containing three or more dwelling units. Multiple dwelling shall not be deemed to include a hospital, school, convent, monastery, asylum or other public institution.

NONAUTOMATIC SPRINKLER SYSTEM. A sprinkler system in which all pipes and sprinkler heads are maintained dry and which is supplied with water through a fire department siamese con- nection.

NONAUTOMATIC STANDPIPE SYSTEM. A standpipe system in which all piping is maintained dry, and which is supplied with water through a fire department siamese connection.

NONBEARING. As applied to a wall or partition, shall mean one that supports no vertical load other than its own weight.

NONCOMBUSTIBLE. A material which, in the form in which it is used in construction, will not ignite and burn when subjected to fire. However, any material which liberates flammable gas when heated to any temperature up to one thousand three hundred eighty degrees Fahrenheit for five minutes shall not be considered noncombustible. No material shall be considered noncombustible which is subject to increase in combustibility beyond the limits established above, through the effects of age, fabrication or erection techniques, moisture, or other interior or exterior atmospheric conditions. (Definition amended L.L. 13/1987 § 1, effective 3/23/1987.)

NONCURRENT LOADS. Two or more elements of dead or live load which, for purposes of design, are considered not to act simultaneously.

NONLOADBEARING. (See NONBEARING.)

OCCUPANCY. The purpose or activity for which a building or space is used or is designed or intended to be used.

OCCUPANCY GROUP. The category in which a building or space is classified by the provisions of subchapter three of this chapter, based on its occupancy or use.

OCCUPANT LOAD. The number of occupants of a space, floor or building for whom exit facilities shall be provided.

OCCUPIABLE ROOM. A room or space, other than a habitable room designed for human occupancy or use, in which persons may remain for a period of time for rest, amusement, treatment, education, dining, shopping, or other similar purposes, or in which occupants are engaged at work.

OCTAVE. The interval between two sounds having a basic frequency ratio of two. By extension, the octave is the intervale between any two frequencies having the ratio 2:1. The standard octave bands are:

FREQUENCY (CPS)								
Mid-Frequency	63	125	250	500	1000	2000	4000	8000
Approximate								
Lower	45	90	180	355	710	1400	2800	5600
Frequency								
Limits Upper	90	180	355	710	1400	2800	5600	11200

OFFICE BUILDING. A building constructed pursuant to the code in effect prior to December 6, 1968 in which the main use or dominant occupancy is offices or a building classified in occupancy group E.

OIL BUFFER. As applied to an elevator, shall mean a buffer using oil as a medium which absorbs and dissipates the kinetic energy of a descending car or counterweight.

OPEN EXTERIOR SPACE. A street or other public space; or a yard, court, or plaza open on one or more sides and unroofed or open on all sides, which provides egress to a street or public space.

OPEN PARKING LOT. A lot, or portion thereof, used for the storage or sale of more than four motor vehicles, but not used for the repair or servicing of such vehicles.

OPEN PARKING STRUCTURE. A structure open to the outdoors fifty percent or more on two or more sides of each story, used for the parking of motor vehicles.

OPEN SHAFT. A shaft open to the outdoor air at the top.

OPENING PROTECTIVE. An assembly of materials and accessories, including frames and hardware installed in an opening in a wall, partition, floor, ceiling or roof to prevent, resist, or retard the passage of flame, smoke or hot gases.

ORDINARY REPAIRS. (See section 27-125 of this chapter.)

OUTER COURT. Any open area, other than a yard or portion thereof, that is unobstructed from its lowest level to the sky and that, except for an outer court opening upon a street line, a front yard, or a rear yard, is bounded by either building walls or building walls and one or more lot lines other than a street line.

OUTRIGGER SCAFFOLD. A scaffold, the platform of which is built upon supports cantilevering beyond the walls of the building.

OUTSIDE GAS SERVICE LINE VALVE. The valve located on the gas service piping which can be either exposed or buried.

OWNER. A person having legal title to premises; a mortgagee or vendee in possession; a trustee in bankruptcy; a receiver or any other person having legal ownership or control of premises.

PARAPET. The continuation of an exterior wall, fire wall, or party wall above the roof line.

PARKING TIER. A general level of parking.

PARTITION. A vertical unit or assembly of materials that separates one space from another within any story of a building.

PARTY WALL. A fire division on an interior lot line common to two adjoining buildings.

PENTHOUSE. An enclosed structure on or above the roof of any part of a building, which is designed or used for human occupancy. (See BULKHEAD and ROOF STRUCTURE.)

PERMIT. A written document issued by the commissioner authorizing the construction or alteration or demolition of a building, or the installation, alteration or use and operation of service equipment therein.

PERSON. An individual, partnership, corporation, or other legal entity.

PHYSICAL DISABILITY. Any of the following:

(a) impairment requiring use of a wheelchair; or

(b) impairment causing difficulty or insecurity in walking or climbing stairs or requiring the use of braces, crutches or other artificial supports; or impairment caused by amputation, arthritis, spastic condition or pulmonary, cardiac or other ills rendering the individual semi-ambulatory; or

(c) total or partial impairment of hearing or sight causing insecurity or likelihood of exposure to danger in public places; or

(d) impairment due to conditions of aging and incoordination.

The term "physical handicap" shall have the same meaning as the term "physical disability" and the phrase "people having physical disabilities" shall include those having one or more physical disabilities.

(Definition added L.L. 58/1987 § 4.)

PILE. A structural element introduced into the ground to transmit loads to lower strata and of such construction that the material underlying the base of the unit or along the sides cannot be visually inspected.

PILE CAR. A construction encasing the heads of one or more piles which transfers loads to the pile or piles.

PLACE OF ASSEMBLY. An enclosed room or space in which seventy-five or more persons gather for religious, recreational, educational, political or social purposes, or for the consumption of food or drink, or for similar group activities or which is designed for use by seventy-five or more persons gathered for any of the above reasons, but excluding such spaces in dwelling units; or an outdoor space in which two hundred or more persons gather for any of the above reasons or which is designed for use by two hundred or more persons gathered for any of the above reasons. (Definition amended L.L. 23/1990 § 8 eff. July 7, 1990.)

PLASTIC. A material that contains as an essential ingredient an organic substance of large molecular weight, is solid in its finished state and, at some stage in its manufacture or its processing into finished articles, can be shaped by flow.

PLASTIC, SLOW BURNING. A plastic having a rate of combustion within the limits of a specified standard of subchapter five of this chapter.

PLATFORM FRAME. Light timber construction in which the exterior walls and bearing walls consist of studs which are interrupted at floors by the entire thickness of the floor construction.

PLUMBING. The practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, equipment, and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities, the venting system and the public or private water supply systems, within or adjacent to any building; also the practice and materials used in the installation, maintenance, extension, or alteration of storm water, liquid-waste, or sewerage, and water-supply systems of any premises and their connection with any point of public disposal or other acceptable terminal.

PLUMBING FIXTURES. Installed receptacles, devices, or appliances that are supplied with water or which receive or discharge liquids or liquid-borne wastes.

PLUMBING SYSTEM. The water-supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; building house drains and building house sewers including their respective connections, devices, and appurtenances within the property lines of the premises; and water-treating or water-using equipment.

POLE FOOTING. A type of construction in which a pole embedded in the ground and extending upward to

form a column is used for both column and footing.

PONDING. The collection of rainwater.

POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the department of health and mental hygiene.

POWER-OPERATED SCAFFOLD. Any form of scaffold that is propelled vertically by the use of power machinery.

PREMISES. Land, improvements thereon, or any part thereof.

PRIMARY ENTRANCE(S). The principal entrance(s) to a building primarily and expressly utilized for day-to-day pedestrian ingress and egress. Side, rear and other entrances solely used for freight and service shall not constitute a primary entrance. (Definition added L.L. 58/1987 § 5.)

PRIVATE GARAGE. A building or enclosed space used for the parking or storage of not more than four motor vehicles having fuel storage tanks of twenty-six gallon capacity or less, and in which no repair, body work, or painting of vehicles is conducted, and in which no gasoline, oil, or similar products are dispensed.

PRIVATE SEWER. A sewer privately owned and controlled by public authority only to the extent provided by law.

PROJECTING SIGN. A sign affixed to an exterior wall of a building and extending more than fifteen inches beyond the wall surface.

PUBLIC AREAS. Area(s) within a building usually open to or used by the general public, such as lobbies, corridors, waiting rooms, reception rooms, rest rooms, etc.

PUBLIC GARAGE. A building or space used for the parking or storage of motor vehicles, other than an automotive service station, automotive repair shop, open parking structure, or private garage. Truck loading and shipping areas shall be classified as public garages.

PUBLIC SEWER. A sewer entirely controlled by public authority.

PUBLIC SPACE. An open space outside of a building, which is dedicated or devoted to public use by lawful mapping or by any other lawful procedure.

PURE TONE. A soundwave of a single frequency, so called to distinguish it from a complex tone.

REAR LOT LINE. Any lot line, except a street line, that is parallel or within forty-five degrees of being parallel to, and does not intersect any street line bounding such lot.

REAR YARD. A yard extending for the full length of a rear lot line.

REBOUND. Recovery of displacement due to release or reduction of applied load.

REFRIGERATION. The process by which heat is absorbed from a substance by expansion or vaporization of a refrigerant.

REQUIRED. Shall mean required by the provisions of this code.

RETAINING WALL. A wall designed to prevent the lateral displacement of soil or other materials.

RIGGING LOFT. A space above a stage, designed and used for the flying and storage of scenery and scenic elements. A space used for the occasional flying of incidental props during a performance shall not be deemed to constitute a rigging loft.

ROOF. The topmost slab or deck of a building, either flat or sloping, with its supporting members, not including vertical supports.

ROOF COVERING. The covering applied to the exterior surface of a roof for weather resistance, fire resistance, wear, and/or appearance, but not including insulation.

ROOF SIGN. A sign erected and maintained on or above the roof of a building.

ROOF STRUCTURE. An unenclosed structure on or above the roof of any part of a building. (See BULKHEAD and PENTHOUSE.)

ROOMER. (See BOARDER.)

SAFE AREA. An interior or exterior space that serves as a means of egress by providing a transitional area from, and that also serves as a normal means of entry to, an assembly space.

SAFETY (CAR OR COUNTERWEIGHT). A mechanical device attached to an elevator car frame or to an auxiliary frame, or to the counterweight frame, to stop and hold the car or counterweight in case of predetermined overspeed or free fall, or if the hoisting ropes slacken.

SCENERY AND SCENIC ELEMENTS. Any or all of those devices ordinarily used on a stage in the presentation of a theatrical performance, such as back drops, side tabs, teasers, borders or scrim, rigid flats, set pieces, and all properties, but not including costumes.

SCHOOL. An elementary school, high school, or college, either public or private.

SEATING SECTION. An area of seating bounded on all sides by aisles, cross aisles, walls or partitions.

SELF-CLOSING. As applied to an opening protective shall mean a door, window, damper, or other device, and its assembly that is normally kept in a closed position and that is equipped with an approved device to insure immediate closing after having been opened for use.

SELF-RELIEVING CONSTRUCTION. Construction using a type of framing in which the connections are capable of developing a known and dependable moment capacity but which, under larger moments, are capable of rotating (without fracture) an amount sufficient to accommodate the deflection due to the excess of the applied moment over the moment capacity.

SERVICE EQUIPMENT. Equipment, including all components thereof, which provides sanitation, power, light, heat, cooling, ventilation, airconditioning, refuse disposal, fire-fighting, transportation, or similar facility for a building which by design becomes a part of the building, and which is regulated by the provisions of this code.

SEWAGE. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

SEWAGE DISPOSAL SYSTEM. A system for the disposal of sewage by means of a septic tank, cesspool, or mechanical treatment, all designed for use apart from a public sewer to serve a single establishment, building, or development.

SEWAGE EJECTOR. A mechanical device used to pump or eject sewage.

SHAFT. A vertical, inclined, or offset passage, or hoistway, penetrating through two or more floors of a building or through a floor and roof. (See CLOSED SHAFT and OPEN SHAFT.)

SHALL. As used in this code, is always to be construed as mandatory.

SHELL. A structure consisting of a curved or folded slab whose thickness is small compared to its other dimensions, and which is characterized by its three dimensional load-carrying behavior. The term shall include those forms of construction that approximate slab surfaces, such as lamellas and lattices.

SIAMESE CONNECTION. A fitting connected to a fire extinguishing system and installed on the outside of a building, with two hose inlets for use of the fire department, to furnish or supplement the water supply to the system.

SIDE LOT LINE. Any lot line that is not a street line or a rear lot line.

SIDEWALK ELEVATOR. A freight elevator that operates between a sidewalk or other area outside of a building and floor levels inside the building below such area, which has no landing opening into the building at its upper limit of travel, and which is not used to carry automobiles.

SIDE YARD. A yard extending along a side lot line from the required front yard (or from the street line if no front yard is required) to the required rear yard (or to the rear lot line if no rear yard is required).

SIDEWALK SHED. A construction over a public sidewalk, used to protect pedestrians from falling objects.

SIGN. An outdoor structure, banner or other device, designed or used as an advertisement, or announcement for the information or attraction of the public; consisting of the framework and all letters, words, numerals, illustrations, illumination, decorations, trade marks, emblems, symbols or other figures or characters.

SINGLE POLE SCAFFOLD. A platform resting on putlogs or crossbeams, the outer ends of which are supported on ledgers secured to a single row of posts or uprights, and the inner ends of which are supported by a wall.

SMOKE BARRIER. Any continuous non-combustible construction, vertical, horizontal, or otherwise, such as a wall, floor, or ceiling assembly, that is designed and constructed to restrict the spread of smoke and constructed in accordance with the provisions of section 27-353.3 of this code.

SMOKE-STOP DOOR. A door or set of doors placed in a corridor to restrict the spread of smoke and to retard the spread of fire by reducing draft.

SOIL VENT. (See STACK VENT.)

SOUND POWER. The rate at which sound energy is radiated by a source.

SOUND POWER LEVEL. The ratio, expressed in decibles, of the sound power of a source to the reference power of ten-thirteen watts.

SOUND PRESSURE LEVEL. The square ratio, expressed in decibels, of a sound pressure to a reference pressure of 0.0002 dynes per square centimeter.

SPANDREL WALL. That portion of an exterior wall between the top of one opening and the bottom of another in the story directly above.

SPARK ARRESTER. A device to prevent sparks, embers, or other ignited material above a given size from being expelled to the atmosphere from the top of a chimney.

SPECIAL WASTE. Wastes that require special treatment before entry into the normal plumbing system.

SPRAY BOOTH. A compartment in which spraying with any substance is carried on, consisting of at least two sides, a back and a top.

SPRAYING SPACE OR DIPPING SPACE. Any portion of a building in which the actual work of spraying, dipping, or immersing any article with or into flammable substances takes place.

SPRINKLER ALARM. An apparatus constructed and installed so that a flow of water through the sprinkler system equal to, or greater than, that required for a single automatic sprinkler head will cause an alarm to be given.

SPRINKLER SYSTEM. A system of piping and sprinkler heads connected to one or more sources of water supply.

STACK. (See CHIMNEY.) Also, a general term applying to any vertical line of soil, waste, vent, or inside leader piping. It shall not include vertical fixture and vent branches that do not extend through the roof or that pass through not more than two stories before being reconnected to the vent stack or stack vent.

STACK VENT. The extension of a soil or waste stack above the highest horizontal drain connected to a plumbing stack.

STAGE. An area used in the presentation of a live performance at anytime and includes the performing area and non-audience areas that are open to the performing area. It may be level or raised with or without scenic elements, and generally is serviced by stage illumination appliances and control panels. For places of assembly classified as occupancy group F-1A or F-1B, the word stage shall be defined in accordance with the definition set forth in sections 27-546 and 27-547 of article three of subchapter eight of this code.

STAGE LIFT. A movable section of a stage floor, designed to carry scenery between staging areas and the stage, and also used to be raised to and temporarily retained at elevations above or below the stage level.

STANDPIPE SYSTEM. A system of piping, for fire-fighting purposes, consisting of connections to one or more sources of water supply, and serving one or more hose outlets.

STORM DRAIN. (See BUILDING STORM DRAIN.)

STORM SEWER. A sewer used for conveying rain water, surface water, condensate, cooling water, or similar clear liquid wastes which do not contain organic materials or compounds subject to decomposition.

STORY. That portion of a building that is between a floor level and the next higher floor level or roof above.

STREET. A thoroughfare dedicated or devoted to public use by legal mapping or other lawful means.

STREET FLOOR. A floor, usually the principal entrance floor, that is not more than one-half story above or below grade at the location from which egress is provided to the street.

STREET LINE. A lot line separating a street from other land.

STREET MAIN. (See WATER MAIN and GAS SERVICE PIPING.)

STRUCTURE. An assembly of materials forming a construction for occupancy or use, including among others: buildings, stadia, tents, reviewing stands, platforms, stagings, observation towers, radio towers, tanks, trestles, open sheds, coal pockets, shelters, fences, and display signs.

SUBSTRATE. A surface upon which a finish material is directly applied and which extends completely behind such finish material.

SUMP PIT. A tank or pit that receives clear liquid wastes that do not contain organic materials or compounds subject to decomposition, located below the normal grade of the gravity system and that must be emptied by mechanical means.

SUMP PUMP. A mechanical device used to pump the liquid waste from a sump pit into the gravity drainage system.

SUPPLEMENTAL VERTICAL EXIT. An enclosed stair, ramp or escalator providing means of egress to an area of refuge at another level nearer to the street floor.

THIS CODE. The building code.

TIER OF SEATING. A general level of seating, such as an orchestra (usually the main tier), a balcony, or gallery.

TRAILER CAMP. A lot or parcel of land used for temporary or permanent occupancy by two or more mobile homes or travel trailers.

TRANSFER COLUMN. A column supported by beams, girders, trusses or similar members and reacting on two or more columns at a lower level.

UNIFORMLY DISTRIBUTED LOAD. A conventionalized representation of an element of dead or live load as a load of uniform intensity, distributed over an area.

USABLE DWELLING UNITS. Dwelling units which are accessible, constructed and equipped as set forth in reference standard RS 4-6, so as to be usable by all categories of people having physical disabilities. (Definition added L.L. 58/1987 § 6.)

USE (USED). The purpose for which a building, structure, or space is occupied or utilized, unless otherwise indicated by the text. Use (used) shall be construed as if followed by the words "or is intended, arranged, or designed to be used."

VAULT (SIDEWALK). Any space below the surface of the sidewalk portion of a street, that is covered over, except those openings that are used exclusively as places for descending, by means of steps, to the cellar or basement of any building.

VENT (GAS). A flue or duct, used to convey the products of combustion from gas-fired equipment to the outdoor air by natural draft.

VENT STACK (PLUMBING). A vertical vent pipe extending through more than two stories, which is then connected to a stack vent or is otherwise extended through the roof, installed primarily for the purpose of providing circulation of air to and from any part of a drainage system.

VENT SYSTEM (COMBUSTION). A gas vent or chimney, together with a vent connector that forms a continuous unobstructed passageway from gas burning equipment to the outdoor air for the purpose of removing vent gases.

VENT SYSTEM (PLUMBING). A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

VERTICAL EXIT. A stair, ramp, or escalator serving as an exit from one or more floors above or below the street floor.

WALL SIGN. A sign affixed to the exterior wall of a building, no part of which projects more than fifteen inches from the wall surface.

WATER-DISTRIBUTION PIPING. The pipes in a building or premises that convey water from the water service pipe to the plumbing fixtures and other water outlets.

WATER (STREET) MAIN. A water-supply pipe for public or community use controlled by public authority.

WATER-SERVICE PIPE. The pipe from the water (street) main or other source of water supply to the building served.

WATER SUPPLY SYSTEM. The water-service pipe, the water-distribution piping, and all of the necessary connecting pipes, fittings, control valves, and appurtenances used for conveying water in a plumbing system.

WET STANDPIPE SYSTEM. A standpipe system in which all of the piping is filled with water under pressure, that is immediately discharged upon the opening of any hose valve.

WINDING-DRUM MACHINE. As applied to an elevator, shall mean a geared drive machine in which the hoisting ropes are fastened to and wind on a drum.

WORKERS' HOIST. A hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction and that is used primarily for raising and lowering workers to the working levels.

WRITING (WRITTEN). The term shall be construed to include handwriting, typewriting, printing, photo-offset, or any other form of reproduction in legible symbols or characters.

WRITTEN NOTICE. A notification in writing delivered by hand to the person or parties intended, or delivered at or sent by mail to the last business address known to the party giving such notice.

YARD. That portion of a lot extending open and unobstructed from the lowest level to the sky along the entire length of a lot line.

ZONE. A vertical division of a building fire standpipe system used to establish the water working pressures within the system and also to limit the pressure at the lowest hose outlet in the zone.

ZONING RESOLUTION. The zoning resolution of the city of New York, adopted December fifteenth, nineteen hundred sixty-one, including all amendments thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1.

Elevator vestibule amended L.L. 26/2004 § 6, eff. Oct. 22, 2004 except

that prior to such date the commissioner of buildings and the fire

commissioner may promulgate rules or take other administrative actions

to faciliate the implementation of such provisions.

Exit amended L.L. 26/2004 § 6, eff. Oct. 22, 2004 except that prior to

such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to facilitate the implementation of such provisions.

Family amended L.L. 27/1998 § 26, eff. Sept. 5, 1998. Note catchline "Family" omitted from amendment.

Fire suppression piping system added L.L. 107/1993 § 9, eff. Dec. 28, 1993.

Habitable room amended chap 559/1995 § 8, eff. Jan. 1, 1996.

Office building added L.L. 26/2004 § 6, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

Potable water amended L.L. 22/2002 § 58, eff. July 29, 2002 and deemed in effect as of July 1, 2002.

Smoke barrier amended L.L. 26/2004 § 6, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

DERIVATION

Formerly § C26-201.0 added LL 76/1968 § 1

[no sections] Generally §§ C26-10.0-C26-160.0 from original code.

Crane added LL 73/1969 § 12

Derrick added LL 73/1969 § 13

Cableway added LL 73/1969 § 14

Hoisting machine added LL 73/1969 § 15

Cellar amended LL 5/1971 § 1

Area of refuge, collecting safe area, dead end, exit, family, fire area amended LL 39/1972 § 7

Coatings, fire-retardant, moved LL 39/1972 § 8

Noncombustible amended LL 80/1972 § 1

Existing office building added LL 5/1973 § 3

Group home added LL 28/1975 § 1

Cabaret added LL 41/1978 § 9

Stage added LL 41/1978 § 10

Gas meter piping amended LL 30/1982 § 2

Gas piping systems added LL 30/1982 § 3

Gas service line valve added LL 30/1982 § 3

Gas service piping amended LL 30/1982 § 4

Outside gas service line valve added LL 30/1982 § 5

Atrium added LL 16/1984 § 13

Elevator vestibule added LL 16/1984 § 14

Existing building; existing high rise building added LL 16/1984 § 15

Fire protection plan added LL 16/1984 § 16

Fire safety plan added LL 16/1984 § 17

High rise added LL 16/1984 § 18

Low rise; mall added LL 16/1984 § 19

Public areas added LL 16/1984 § 20

Smoke barrier added LL 16/1984 § 21

CASE NOTES FROM FORMER SECTION

¶ 1. Ruling that a building is "enlarged, extended, reconstructed or structurally altered" within the meaning of the zoning resolution only where there is a change or substitution in a substantial particular in the structure of the building itself or in one of its parts or by the addition of another structure to it so that there is an effective conversion of an existing building into a different structure, is supported by the definition of "alteration" formulated in Administrative Code § C26-11.0.-440 East 102nd Street Corp. v. Murdock, 285, N.Y. 298, 34 N.E. 2d 329 [1941], rev'g 260 App. Div. 604, 23 N.Y.S. 2d 347 [1940].

¶ 2. In his application for a building permit, defendant stated he was going to make an alteration in his two-story building. He then evicted his statutory tenants for the purpose of "demolishing the building with the intention of constructing a new building". The "alteration" consisted of erecting 18 additional floors and joining the building with an adjacent 20-story building. **Held:** although the building permit called the work an "alteration" it constituted a demolition and construction under the Business Rent Law.-Friedman v. Ontario Holding Corp., 279 App. Div. 23, 107 N.Y.S. 2d

610 [1951], aff'd 304 N.Y. 625, 107 N.E. 2d 97 [1952].

¶ 3. Under the definition of "bulkhead" in this section, section C26-873.0 prescribing the headroom in bulkheads did not apply to the door opening in an elevator involved in an accident.-Haffner v. S. H. Kress & Co., 20 App. Div. 2d 634, 246 N.Y.S. 2d 220 [1963].

¶ 4. Administrative Code § B26-33.0 exempting from the statute requiring a license for hoisting or lowering articles on the outside of a structure, the hoisting or lowering of building materials used in the course of construction of a building, did not apply to a defendant who was hoisting sand in connection with the conversion of a single family five-story dwelling into a ten-story dwelling. That defendant's operation amounted to an "alteration" under the definition of alterations in § C26-11.0 and under § C26-41.0 this amounted to a "construction" was not controlling, inasmuch as § C26-9.0, subd. a, states that the definitions should have the meaning therein given except as they were defined in any other law which might apply in particular cases.-People v. Olsen, 32 N.Y.S. 2d 63 [1940].

¶ 5. Where plaintiff proposed to construct four apartment houses in H-shape units of two, one unit to face on Franklin Avenue and the other on Blossom Avenue, the fact that the excavation running south for the apartment to face on Franklin Avenue was commenced from that avenue and that nine days later, the excavation running north for the apartment to face on Blossom Avenue was commenced from that avenue, did not transform what was in effect one excavation conducted by one owner and on one lot in connection with one project into two excavations for the purpose of ascertaining the depth thereof in order to fix the obligation of the parties for shoring up the adjoining land under Administrative Code § C26-45.0. If there was but one excavation and the curb which was nearest to the point of excavation was the Franklin Avenue curb, the level of that curb had to be used to fix the depth of excavation. The excavation as thus fixed was more than 10 feet deep, and hence, the expense of preserving and protecting defendant's wall must be borne by the plaintiff.-Blossom Mannor, Inc. v. Carlhart Realty Corp., 126 (61) N.Y.L.J. (9-26-51) 638, Col. 3 T.

¶ 6. A heated porch, 6'10" by 18'6", having the same roof as the remainder of the house, and containing furniture for sleeping, **held** to be a "livable room".-Jaffe v. McGoldrick, 285 App. Div. 889, 137 N.Y.S. 2d 519 [1955].

¶ 7. The provisions of the Code dealing with passenger elevators imposes the responsibility of inspection and maintenance on the person in actual possession and control of the premises and it could not effect a change in substantive law so as to **hold** an elevator service company having a maintenance contract with the owner liable in tort to an invitee to the premises.-Ames v. Jalpur Realty Corp., 138 N.Y.S. 2d 698 [1955].

¶ 8. The employee of a restaurateur which leased space in a large office building was not entitled to recover over against the owner of buildings for injuries sustained when, in the course of his employment, as he was riding a freight elevator between basement of premises and sidewalk, he caught his foot under a metal plank which protruded from the shaft wall about one-eighth of an inch to one inch and thereby was caused to lose four toes. Although it could have been found that there was a negligently defective condition on the elevator, the owner of the premises had divested himself of all possession and control of the elevator and its appurtenances by investing possession and control in the lessee. Administrative Code § C26-1171.0 imposing responsibility upon the owner of the structure in which an elevator is installed, was intended to impose responsibility upon the person in actual possession and control. Furthermore, the Administrative Code is merely a codifying statement and was not intended to make changes in the substantive law, such as making a sweeping extension of liability of owners.-Stein v. Pershing Square Building Corp., 191 Misc. 30, 79 N.Y.S. 2d 417 [1948].

¶ 9. The defendant, who was in the steel business and maintained rigging equipment on the outside of a building for purpose of hoisting and lowering steel beams into position to be used in the construction of a penthouse on an existing 13-story building, was not required to have a rigger's license, as the construction of a penthouse came within Administrative Code § B26-33.0, exempting the hoisting or lowering of building material used in course of construction of any building or structure.-People v. Sherry, 185 Misc. 64, 55 N.Y.S. 2d 776 [1945].

¶ 10. A cabaret with a capacity of 58 persons is not a "place of assembly" and it is not necessary that capacity signs be posted.-People v. Wallace, 44 Misc. 2d 179, 253 N.Y.S. 2d 512 [1964].

¶ 11. Application for a mandamus order requiring the Commissioner of the Department of Marine and Aviation to redraft certain contracts for work at the Idlewild Municipal Airport to provide that certain work be performed by plumbers, was denied on ground no clear legal right to a mandamus order was established, as the Commissioner was required to exercise reasonable discretion and it appeared that the sewer mains and water pipes laid in an airport project consisting of 4557 acres could presumably be determined by reasonable minds as not being plumbing, water system or lines, or drainage of buildings or the connection thereof with a public sewer, private sewer, or an approved sewerage disposal plant. It might reasonably be regarded that the work was part of the public sewer or water system, and that Administrative Code §§ C26-1268.0, C26-1204.0, C26-1206.0, C26-1208.0 and 82d9-7.0, and the Borough President's regulations, had application to plumbing within the buildings and structures proposed to be erected within the grounds and the connection thereof with sewers and water mains. Even though certain small items of the work might be plumbing, these were so small when compared with the entire work and so integrated in it as to constitute merely incidental plumbing not separable from the contracts.-Moriarty v. McKenzie, 185 Misc. 87, 55 N.Y.S. 2d 771 [1945].

¶ 12. Even if it could be held that plaintiff had a strict legal right to any of the relief sought, enforcement in the present instance would work unnecessary hardship, and granting such relief would not be in the public interest.-Id.

¶ 13. Application for mandamus order requiring the Commissioner of the Department of Marine and Aviation to redraft contracts for work at the Idlewild Municipal Airport to provide that certain work be done by plumbers was denied on the ground that no clear legal right to such order was established since it might reasonably be regarded that the work was part of the public sewer or water system and not plumbing from a building to a public or private sewer system.-Moriarty v. McKenzie, 185 Misc. 87, 55 N.Y.S. 2d 771 [1945].

¶ 14. Action to recover for injuries sustained when plaintiff tripped over lock two inches high on cellar door in sidewalk in front of defendant's premises, did not come within City ordinance relating to vault roofs in sidewalks (Code of Ordinances, Ch. 5, § 170, subd. 4(k)), inasmuch as it was provided elsewhere (Ch. 23, § 240, subd. 1) that the term "vault" does not include such a door as was presently involved.-King v. Dredger, 256 App. Div. 1086, 11 N.Y.S. 2d 257 [1939].

¶ 15. In an action by a pedestrian against an electric light company to recover for injuries sustained in a fall occasioned by tripping against the side of a manhole cover constructed and maintained by the defendant in an unpaved portion of the sidewalk between the sidewalk and the curb, Administrative Code § C26-230.0 requiring construction of all covers "flush and all parts of the sidewalk" was inapplicable. The statute applies only to such openings as are otherwise unprovided for by law. The construction of the manhole in question was pursuant to authorization of the Department of Water Supply, Gas and Electricity upon consent of the Borough president in accordance with the specific provisions of law, operative independently of the Administrative Code provisions (Transportation Corp. Law § 11, Charter § 734). In view of the nature of the cover its projection of only two or three inches above the surface of the surrounding dirt area and the availability of the adjacent paved area of sidewalk, there was no proof of negligence in the absence of a violation of the Code provision.-Kaupsterstein v. Brooklyn Edison Co., 266 App. Div. 879, 43 N.Y.S. 2d 23 [1943], aff'd without opinion, 292 N.Y. 561, 54 N.E. 2d 686 [1944].

CASE NOTES

¶ 1. A mortgagee is an "owner" within the meaning of the section only if it is in possession of the premises. People v. Riverdale Equities, 148 Misc.2d 816, 562 N.Y.S.2d 352 (Crim.Ct. Bronx Co. 1990).

¶ 2. The statute imposes a nondelegatable duty upon building owners to maintain their premises in a safe condition, but did not to a subcontractor/site manager. Weiss v. City of New York, 16 A.D.3d 680, 792 N.Y.S.2d 530 (2d Dept. 2005).

¶ 3. In one case, plaintiff allegedly was injured due to a defective stairway. It was claimed that the stairs in question failed to comply with the requirements pertaining to treads, risers ad handrails contained in Article 153 of the applicable 1916 Building Code. Where the 1916 Code did not contain a definition of "interior stairs," the trial court properly considered the definition of "interior stairs" in the current Building Code. Sec. 27-232 defines interior stairs as "a stair within a building, that serves as a required exit." Here, the stairs were located under a trap door and ran between the first floor and the basement. Since the stairs did not qualify under the statute, plaintiff could not use a statutory violation as a basis for liability. Maksuti v. Best Italian Pizza, 27 A.D.3d 300, 8ll N.Y.S.2d 375 (1st Dept. 2006), leave to appeal denied, 7 N.Y.3d 715, 826 N.Y.S.2d 180, 859 N.E.2d 920 (2006).

¶ 5. In a lawsuit arising out of a fall on a stairway at Yankee Stadium, the court had to determine whether the stairs were subject to the handrail and tread requirements applicable to exit stairs. The outdoor stairs to Monument Park at the stadium lead from seating section to the field level of the stadium to the park area. The park is contained wholly within the stadium and does not lead to a street or public space. Thus, the stairs are not a "public space" or "open space". Moreover, since Monument Park does not offer access to the street, these stairs do not fall within the requirements of the Building Code applicable to exit stairs. De Rosa v. City of New York, 30 A.D.3d 323, 817 N.Y.S.2d 282 (1st Dept. 2006).

In one case, the plaintiff, a bartender, fell when he was descending the stairway to the basement. The stairway, located in a bar and grill restaurant owned by defendant, was accessible through an opening in the floor located behind the bar, and went into the basement of the building. Plaintiff contends that the location met the definition of an "interior stair" as defined in NYC Admin. Code § 27-232 and was governed by the principles set forth in Admin. Code § 27-375. The plaintiff argued that the stairway violated the requirements established under § 27-375, and therefore establishing that they were structurally defective, he should be entitled to recover for damages for the injuries he sustained.

The question for the court was: what is the requirement for interior stairs? Since the stairway from an opening in the floor behind the bar to the basement and was not a means of "egress", to an open interior space on either end. Thus, the safety requirements of Admin. Code § 375 governing the condition of "interior stairs were inapplicable. Since there was no independent basis for liability and plaintiff failed to cite empirical data or an industry standard independent of the Administrative Code, the court granted summary judgment dismissing the complaint. Mansfield v. Dolcemascolo, 34 A.D.3d 763, 826 N.Y.S.2d 115 (2d Dept. 2006)

FOOTNOTES

8

[Footnote 8]: * Generally §§ C26-10.0-C26-160.0 from original code.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-233

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 2 DEFINITIONS

ARTICLE 3 ABBREVIATIONS

§ 27-233 Abbreviations.

bhp: brake horsepower mph: miles per hour

Btu: british thermal unit oz.: ounce

C: centigrade P.C.E.: pyrometric cone

cfm: cubic feet per minute equivalent

cps: cycles per second pcf: pounds per cubic foot

cu. ft.: cubic feet plf: pounds per linear foot

db: decibel psf: pounds per square foot

dia.: diameter psi: pounds per square inch

F: fahrenheit

fpm: feet per minute

fps: feet per second

fsp: fire standpipe

ft.: foot

gal.: gallon

gpm: gallons per minute

gps: gallons per second

h.p.: horsepower

hr.: hour

in.: inch

INR: impact noise rating

I.P.S.: iron pipe size

lb.: pound

psia: pounds per square inch absolute

psig: pounds per square inch gauge

rpm: revolutions per minute

sec: second

swp: steam working pressure

sq. ft: square foot

sq. in.: square inch

sq. yd.: square yard

STC: sound transmission class

Tag: tagliabue

wwp: water working pressure

Note: For abbreviation of name of referenced national organizations, see reference standard RS 2-1.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-202.0 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-234

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 1 GENERAL

§ 27-234 Scope.

The provisions of this subchapter shall establish and control the classification of all buildings, and spaces therein, with respect to occupancy group and class of construction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-300.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-235

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 1 GENERAL

§ 27-235 Reference standards.

Occupancy and construction classifications which appear in the several reference standards of this code shall apply to the provisions of the reference standard only unless otherwise indicated.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-300.2 added LL 76/1968 § 1

Amended LL 39/1972 § 9

CASE NOTES

¶ 1. Under Administrative Code §27-232, a fence is considered a "structure." Administrative Code §27-235

requires that any unsafe structure be taken down or removed, or made safe and secure. In one case, a police officer, who was injured in a fall from a chain-link fence that bent inwards as he and a fellow officer scaled it in pursuit of a suspect, sued the property owner, alleging a violation of the statute. However, the court held that a mere allegation that the fence was unsafe, without specifying the how the fence was defective, was insufficient to set forth a statutory violation. Wedlock v. Troncoso, 185 Misc.2d 432, 712 N.Y.S.2d 328 (Sup.Ct. Richmond Co. 2000).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-236

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 1 GENERAL

§ 27-236 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-300.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-237

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-237 Occupancy groups.

Table 3-1 lists occupancy groups and sub groups that shall be established for classifying buildings and spaces in accordance with the provisions of articles three through twelve of this subchapter.

TABLE 3-1

Occupancy Classifications

Occupancy Group	Classification	Fire Index
A	High hazard	4
B-1	Storage (moderate hazard)	3
B-2	Storage (low hazard)	2
C	Mercantile	2
D-1	Industrial (moderate hazard)	3
D-2	Industrial (low hazard)	2

E	Business	2
F-1a	Assembly (theaters, etc.)	1
F-1b	Assembly (churches, concert halls, etc.)	1
F-2	Assembly (outdoors)	1
F-3	Assembly (museums, etc.)	1
F-4	Assembly (restaurants, etc.)	1
G	Education	1
H-1	Institutional (restrained)	1
H-2	Institutional (incapacitated)	1
J-1	Residential (hotels, etc.)	1
J-2	Residential (apartment houses, etc.)	1
J-3	Residential (one- and two-family dwellings)	1
K	Miscellaneous	

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-238

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-238 Classification of spaces.

Every space or room hereafter altered or erected shall, for the purposes of this code, be classified in one of the occupancy groups listed in Table 3-1 according to the occupancy or use of the space or room.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-239

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-239 Classification of buildings.

Every building hereafter erected or altered under the provisions of section 27-115 of article four of subchapter one of this chapter shall, for the purposes of this code, be classified in one of the occupancy groups listed in table 3-1 according to the main use or dominant occupancy of the building. However, at the option of the applicant, subject to the approval of the commissioner, buildings may be classified in any other occupancy group, provided such occupancy group has a higher fire index, as listed in table 3-1, than the fire index of the occupancy group classification of the main use or dominant occupant.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.3 added LL 76/1968 § 1

Amended LL 39/1972 § 10

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-240

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-240 Separation of occupancies.

Occupancies within buildings shall be separated from one another as follows:

a. Spaces classified in occupancy groups having a higher fire index, as listed in table 3-1, than the fire index of the occupancy group classification of the building, shall be separated from ad joining spaces by construction meeting the fire-resistance rating requirements for fire divisions under the provisions of subdivision (a) of section 27-339 of article five of subchapter five of this chapter. Such occupancies shall, for the purposes of this code, be classified and treated as separate buildings (hereinafter referred to as "building section").

b. Spaces classified in occupancy groups having the same or lower fire index, as listed in table 3-1, than the fire index of the occupancy group classification of the building, shall be separated from adjoining spaces by construction meeting the fire-resistance rating requirements for fire separations under the provisions of subdivision (b) of section 27-339 of article five of subchapter five of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.4 added LL 76/1968 § 1

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NYC Administrative Code 27-241

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-241 Classification tables.

Table 3-2 and reference standard RS3-3 list representative occupancies that shall be used as a basis for classifying buildings and spaces by occupancy.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-242

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 2 OCCUPANCY CLASSIFICATIONS

§ 27-242 Multiple occupancy or use.

When a building or space is used for multiple purposes, involving different activities at different times, the building or space shall be given a separate occupancy group classification for each of the activities involved. The design and construction of the building or space shall be in accordance with the most restrictive provisions of this code that apply to any of the occupancy group classifications utilized. However, a minor variation of any occupancy or use of a space from technical compliance with a particular space occupancy classification shall not be prohibited if such variation is normally associated with the occupancy classification and no specific danger or hazard is created.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-301.6 added LL 76/1968 § 1

NYC Administrative Code 27-243

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 3 OCCUPANCY GROUP A-HIGH HAZARD

§ 27-243 Classification.

Buildings and spaces shall be classified in the high hazard occupancy group when they are used for storing, manufacturing, or processing potentially-explosive products or materials, or highly-combustible or highly-flammable products or materials that are likely to burn with extreme rapidity. The high hazard group shall also include: uses that involve storing, processing, or handling any materials that produce explosive dust, or that result in the division of matter into fine particles subject to spontaneous ignition; uses that employ solids or substances that ignite or produce flammable gases on contact with water; and any other uses that constitute a high fire hazard because of the form, character, or volume of the materials involved.

(a) Typical material contents. Acetylene gas and gases under pressure of fifteen psig or more and in quantities greater than twenty-five hundred cubic feet, including hydrogen, illuminating gas, natural gas, and all other gases subject to explosion; gas piping at pressure levels above fifteen psig regardless of the quantities of gas; celluloid and celluloid products; cotton batting; kerosene; fuel or other oils having a flash point under 200F (tag closed cup), except five hundred fifty gallons or less in one- and two-family dwellings; refrigerating systems using high hazard refrigerants as defined in subchapter thirteen of this chapter, and except that in buildings lawfully occupied as garages prior to December sixth, nineteen hundred sixty-eight the storage of tank trucks or other vehicles, approved by the fire

commissioner for the transportation of products having a flash point of over 100F (tag open cup), and where the product contained in the cargo space of the vehicles is pending delivery, shall only be considered to constitute a high hazard occupancy when the product is stored in quantities greater than forty-five thousand gallons.

(b) Typical occupant activities. Artifical flower and synthetic leather manufacture; ammunition, explosives, and fireworks manufacture, sales or storage; dry cleaning or dyeing; using or storing gasoline or other combustible solvents as outlined in article six of subchapter seven of this chapter; feather renovating; fruit ripening processes; hydrogenation processes; match manufacture or storage; metal enamelling or japanning; paint and varnish manufacture; paint spraying or dipping, as specified in article three of subchapter seven of this chapter; derivation of petroleum products by application of heat; processing of paper or cardboard in loose form; pyroxylin products manufacture and storage; rag sorting and storage; shoe polish manufacture; straw goods manufacture or broom corn storage; tar, pitch, or resin processing; waste paper sorting, shredding, storage, or baling; cotton waste processes.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-302.1 added LL 76/1968 § 1

Sub a amended LL 82/1973 § 2

Sub a amended LL 30/1982 § 6

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-244

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 3 OCCUPANCY GROUP A-HIGH HAZARD

§ 27-244 Location restrictions.

No space classified in the high hazard occupancy group shall be located above the second story of any building or building section classified in construction group II containing a space classified in occupancy group J-1 or J-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-302.2 added LL 61/1969 § 3

Administrative Code of the City of New York

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NYC Administrative Code 27-245

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 4 OCCUPANCY GROUP B-STORAGE

§ 27-245 Classification.

Buildings and spaces shall be classified in the storage occupancy group when they are used primarily for storing goods. When the goods stored are highly combustible, flammable, or potentially explosive, the building or space shall meet the requirements for high hazard occupancies when the latter are more restrictive than the corresponding requirements for the storage classification. The storage occupancy group consists of sub groups B-1 and B-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-303.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-246

Administrative Code of the City of New York

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 4 OCCUPANCY GROUP B-STORAGE

§ 27-246 Occupancy group B-1.

Shall include buildings and spaces used for storing any flammable or combustible materials that is likely to permit the development and propagation of fire with moderate rapidity.

TABLE 3-2

Typical Occupancies For Occupancy Classification*

Occupancy Group	Desig- nation	Representative Occupancies
High Hazard	A	Paint shop and storerooms; industrial smoke houses; grain elevators; tanneries with enamelling or japanning; distilleries; sugar, starch, cereal, feed, flour, and grist mills; any space containing distribution piping at pressure levels above fifteen psig
Storage	B-1	Warehouses; storerooms; freight depots; stables; coal pockets; group 1 public garages**
	B-2	Warehouses; storerooms; private garages; green houses; group 2 public garages**
Mercantile	C	Retail stores; shops; sales rooms; markets

Industrial	D-1	Baking plants; breweries; automotive repair shops; foundaries; heliports; scenery shops
	D-2	Mechanical and electrical equipment rooms; power plants, and boiler and furnace rooms, except those containing gas distribution piping at pressure levels above fifteen psig; commercial laundries; vocational training shops; laboratories; nonresidential kitchens
Business	E	Office buildings; banks; civic administration buildings; radio and television stations not classified as places of assembly or as equipment rooms; telephone exchanges; and beauty shops; automotive service stations; neighborhood family care centers; medical offices or group medical centers
	F-1b	Churches; lecture halls; court rooms; convention halls; concert halls; sports arenas; planetariums, motion picture theaters
	F-2	Grandstands; bleachers; stadiums; drive-in theaters; amusement attractions and devices; bandstands; skating rinks
	F-3	Exhibition halls; galleries; gymnasiums, museums; passenger terminals; bowling alleys; billiard parlors; skating rinks
	F-4	Restaurants; night clubs; cabarets; dance halls; ballrooms; banquet rooms; cafeterias; snack bars; taverns; coffee houses
Educational	G	Schools; academies; universities; libraries
Institutional	H-1	Jails; prisons; reformatories; mental institutions
	H-2	Hospitals; sanitariums; clinics; nursing homes; orphanages; homes for the aged; day nurseries
Residential	J-1	Hotels; motels; lodging houses; rooming houses
	J-2	Apartment houses; apartment hotels; school dormitory buildings
	J-3	One-family and two-family dwellings; rectories; convents
Miscellaneous	K	Sheds; fences; signs

* This list of occupancies is representative only and is not complete. See reference standard RS 3-3 for additional listings.

** See article ten of subchapter seven of this chapter.

(a) Typical material contents: bags (cloth, burlap, and paper); bamboo and rattan; baskets; belting (canvas and leather); books and paper in rolls or packs; buttons, including cloth-covered, pearl, or bone; boots and shoes; cardboard and cardboard boxes; wearing apparel; cordage; furniture; furs; glue, mucilage, paste, and size; horn and combs other than celluloid; leather enamelling or japanning; linoleum; livestock; lumber; photo-engraving supplies; silk; soap; sugar; tobacco; cigars, cigarettes, and snuff; upholstery and mattresses; wax candles.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-303.2 added LL 76/1968 § 1

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 4 OCCUPANCY GROUP B-STORAGE

§ 27-247 Occupancy group B-2.

Shall include buildings and spaces used for storing noncombustible materials and materials that do not ordinarily burn rapidly.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-303.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-248

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 5 OCCUPANCY GROUP C-MERCANTILE

§ 27-248 Classification.

Buildings and spaces shall be classified in the mercantile occupancy group when they are used for display and sales of goods accessible to public inspection. Highly combustible or flammable goods, such as those made of pyroxylin products, shall be limited to small quantities that do not constitute a high hazard; if not so limited, the occupancy shall meet the requirements for high hazard occupancies when the latter are more restrictive than the corresponding requirements for the mercantile classification.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-304.1 added LL 76/1968 § 1

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NYC Administrative Code 27-249

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 6 OCCUPANCY GROUP D-INDUSTRIAL

§ 27-249 Classification.

Buildings and spaces shall be classified in the industrial occupancy group when they are used for fabricating, assembling, manufacturing, or processing products, materials, or energy, except that when any products or materials, or other products or materials used in their manufacture are highly combustible, flammable, or explosive, the occupancy shall meet the requirements for high hazard occupancies when the latter are more restrictive than the corresponding requirements for the in dustrial classification. The industrial occupancy group consists of sub groups D-1 and D-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-305.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-250

Administrative Code of the City of New York

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 6 OCCUPANCY GROUP D-INDUSTRIAL

§ 27-250 Occupancy group D-1.

Shall include buildings and spaces in which the fabrication, assembly, manufacturing, or processing represents a moderate fire hazard due to the extent and nature of such operations, or to the materials involved.

(a) Typical occupant activities : Canning, including food products and condensed and powdered milk manufacturer; dry cleaning or dyeing using or storing solvents having a flash point between 100° F and 138.2 ° F (Tag. closed-cup); electrolytic processes; glass manufacture, leather tanning and treating, excluding enamelling or japanning; sugar refining; textile milling, including canvas, cotton, cloth, bagging, burlap, carpets, and rugs; upholstering; woodworking; cotton dressmaking; and manufacturing or processing materials such as those outlined in subdivision (a) of section 27-246 of article four of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-305.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-251

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 6 OCCUPANCY GROUP D-INDUSTRIAL

§ 27-251 Occupancy group D-2.

This group shall include buildings and spaces in which the fabrication, assembly, manufacturing, or processing represents a low fire hazard.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-305.3 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-252

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 6 OCCUPANCY GROUP D-INDUSTRIAL

§ 27-252 Location restrictions.

No space classified in the industrial group D shall be located above the second story of any building or building section classified in construction group II containing a space classified in occupancy group J-1 or J-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-305.4 added LL 61/1969 § 4

Administrative Code of the City of New York

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NYC Administrative Code 27-253

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 7 OCCUPANCY GROUP E-BUSINESS

§ 27-253 Classification.

Buildings and spaces shall be classified in the business occupancy group when they are occupied for transacting business; for rendering professional services; or for performing other commercial services that may incidentally involve the storage of limited quantities of stocks of goods for office use or purposes. Buildings and spaces used for prosecuting public or civic services shall also be classified in this group.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-306.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-254

Administrative Code of the City of New York

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 8 OCCUPANCY GROUP F-ASSEMBLY

§ 27-254 Classification.

Buildings and spaces exclusive of dwelling units shall be classified in the assembly occupancy group when they are designed for use by any number of persons for religious, recreational, political or social purposes, or for the consumption of food or drink or for similar group activities; or when occupied by seventy-five people or more for educational purposes. When such occupancies are enclosed and contain or are designed for use by seventy-five or more persons or are outdoor spaces and contain or are designed for use by two hundred or more persons, they shall comply with the requirements of subchapter eight of this chapter for places of assembly.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 23/1990 § 9 eff. July 7, 1990

[See note after § 15-227.]

DERIVATION

Formerly § C26-307.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-255

Administrative Code of the City of New York

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 8 OCCUPANCY GROUP F-ASSEMBLY

§ 27-255 Occupancy group F-1.

Shall include those buildings and spaces in which, during the major period of occupancy, the persons assembled comprise a seated or otherwise passive audience to a performance or presentation, and have their attention focused in a common direction or at a common subject. Occupancy group F-1 consists of two subdivisions F-1a and F-1b.

(a) Occupancy group F-1a. Includes buildings and spaces in which scenery and scenic elements are used.

(b) Occupancy group F-1b. Includes buildings and spaces in which scenery and scenic elements are not used.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-307.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-256

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 8 OCCUPANCY GROUP F-ASSEMBLY

§ 27-256 Occupancy group F-2.

Shall include all outdoor structures and spaces.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-307.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-257

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 8 OCCUPANCY GROUP F-ASSEMBLY

§ 27-257 Occupancy group F-3.

Shall include buildings and spaces in which the persons assembled are physically active and do not have a common center of attention.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-307.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-258

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 8 OCCUPANCY GROUP F-ASSEMBLY

§ 27-258 Occupancy group F-4.

Shall include buildings and spaces in which persons assemble for dancing or for the consumption of food or drink, or for any combination of dancing, eating, drinking, or entertainment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-307.5 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-259

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 9 OCCUPANCY GROUP G-EDUCATIONAL

§ 27-259 Classification.

Buildings, building sections and spaces shall be classified in the educational occupancy group when persons occupy them for instruction or other educational purposes except those spaces occupied as a place of assembly. These spaces shall be classified in occupancy group F-assembly, under the provisions of article eight of this subchapter. Such buildings, building sections and spaces occupied for instruction and used exclusively by adults may be classified, by the commissioner in occupancy group E-business and if so classified such buildings, building sections and spaces shall comply with the requirements for such classification.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-308.1 added LL 76/1968 § 1

Amended LL 16/1984 § 22

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NYC Administrative Code 27-260

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 10 OCCUPANCY GROUP H-INSTITUTIONAL

§ 27-260 Classification.

Buildings and spaces shall be classified in the institutional occupancy group when persons suffering from physical limitations because of health or age are harbored therein for care or treatment; when persons are detained therein for penal or correctional purposes; or when the liberty of the inmates is restricted. The institutional occupancy group consists of sub groups H-1 and H-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-309.1 added LL 76/1968 § 1

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NYC Administrative Code 27-261

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 10 OCCUPANCY GROUP H-INSTITUTIONAL

§ 27-261 Occupancy group H-1.

Shall include buildings and spaces used for the detention of persons under restraint.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-309.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-262

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 10 OCCUPANCY GROUP H-INSTITUTIONAL

§ 27-262 Occupancy group H-2.

Shall include buildings and spaces used for the care or treatment of persons with physical limitations because of health or age. This shall not include medical or dental offices providing services to ambulatory non-hospitalized persons, such as neighborhood family care centers, medical or dental offices, group medical offices, and the like.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-309.3 added LL 76/1968 § 1

Amended LL 39/1972 § 12

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-263

Administrative Code of the City of New York

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CHAPTER 1 BUILDING CODE

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ARTICLE 11 OCCUPANCY GROUP J-RESIDENTIAL

§ 27-263 Classification.

Buildings and spaces shall be classified in the residential occupancy group when families or households dwell therein, or when sleeping accommodations, with or without dining facilities, are provided therein for individuals. Excluded from this group are those buildings and spaces classified under the institutional occupancy group. The residential occupancy consists of sub groups J-1, J-2, and J-3.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-310.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-264

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 11 OCCUPANCY GROUP J-RESIDENTIAL

§ 27-264 Occupancy group J-1.

Shall include buildings and spaces that are primarily occupied for the shelter and sleeping accommodation of individuals on a day-to-day or week-to-week basis.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-310.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-265

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ARTICLE 11 OCCUPANCY GROUP J-RESIDENTIAL

§ 27-265 Occupancy group J-2.

Shall include buildings with three or more dwelling units that are primarily occupied for the shelter and sleeping accommodation of individuals on a month-to-month or longer-term basis.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-310.3 added LL 76/1968 § 1

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NYC Administrative Code 27-266

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ARTICLE 11 OCCUPANCY GROUP J-RESIDENTIAL

§ 27-266 Occupancy group J-3.

Shall include buildings occupied as one-family or two-family dwellings, or as convents or rectories.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-310.4 added LL 76/1968 § 1

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NYC Administrative Code 27-267

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ARTICLE 12 OCCUPANCY GROUP K-MISCELLANEOUS

§ 27-267 Classification.

Structures of a temporary character, and minor occupancies not classified in any other specific occupancy group, shall be classified in the miscellaneous occupancy group. Such structures and occupancies shall be constructed, equipped, and maintained to meet the requirements of this code commensurate with the fire and life hazard incidental to their use. The miscellaneous occupancy group includes all accessory structures such as sheds, fences, and similar constructions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-311.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-268

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 13 DOUBTFUL OCCUPANCIES

§ 27-268 Classification.

When a building or space is used for an occupancy not specifically provided for in this code, or when its classification is otherwise uncertain, such building or space shall be included in the occupancy group that it most nearly resembles with respect to the existing or proposed life and fire hazard, and it shall be so classified by the architect or engineer subject to the approval of the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-312.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-269

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CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 14 CONSTRUCTION CLASSIFICATIONS

§ 27-269 Construction classes.

Table 3-3 lists construction classes that shall be established for classifying buildings and spaces by construction in accordance with the provisions of articles fifteen, sixteen and seventeen of this subchapter.

TABLE 3.3

Construction Classes

Construction Group	Class
I-Noncombustible	I-A-(4-hr. protected)
	I-B-(3-hr. protected)
	I-C-(2-hr. protected)
	I-D-(1-hr. protected)

	I-E-(unprotected)
II-Combustible	II-A-(heavy timber)
	II-B-(protected wood joist)
	II-C-(unprotected wood joist)
	II-D-(protected wood frame)
	II-E-(unprotected wood frame)

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-313.1 added LL 76/1968 § 1

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ARTICLE 14 CONSTRUCTION CLASSIFICATIONS

§ 27-270 Classification of buildings and spaces.

Every building, room, or space hereafter altered or erected shall, for the purposes of this code be classified in one of the construction classes listed in table 3-3.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-313.2 added LL 76/1968 § 1

[See tabular material in printed version]

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ARTICLE 14 CONSTRUCTION CLASSIFICATIONS

§ 27-271 Classification table.

The fire-resistance ratings of construction elements in hours listed in table 3-4 shall be used as a basis for classifying buildings and spaces by construction. Fire-resistance ratings shall be based on the test procedures of reference standard RS3-1 and shall apply to all occupancy groups except as specifically noted. For hazardous occupancies involving an exceptionally high degree of fire risk or an exceptionally high concentration of combustible or flammable contents, the commissioner may increase the requirements of table 3-4.

Notes:

a The area of openings permitted in exterior walls at any story shall be obtained by multiplying the percentage shown in the table by the exterior separation distance in feet, and then multiplying that product by the square-foot area of the facade of that story. Requirements for protected exterior openings shall not apply to churches [.Protected openings within an exterior separation of 3 ft. 0 inch or less are permitted for buildings classified in Occupancy Groups J-2 and J-3 provided, however said openings do not exceed in total area 10% of the fa;alcade of thye story in which they are located. The openings however, may not be credited towards meeting any of the mandatory natural light or ventilation requirements of Art. 12* Protection of openings with an exterior separation of 3 ft. to 30 ft. shall not be

required for J2 and J3 occupancy groups.]** or to buildings classified in occupancy groups J-2 and J-3. See section 27-331 of article four of subchapter five of this chapter for additional requirements for exterior walls and exterior wall openings.

b Upon special application, the commissioner may permit exterior wall openings to be constructed in excess of the permitted area established by table 3-4 if such openings at the time of their construction are located at least sixty feet in a direct line from any neighboring building except as otherwise permitted by footnote f. Such additional openings may not, however, be credited toward meeting any of the mandatory natural light or ventilation requirements of subchapter twelve of chapter one of this title. If any neighboring building is later altered or constructed to come within the above distance limitation, the affected exterior openings shall immediately be closed with construction meeting the fire-resistance rating requirements for exterior wall construction of the building in which they are located.

*Now Subchapter 12.

**Copy in brackets not enacted but included in NYC Department of Buildings version.

***Copy from closing brackets to these asterisks enacted but probably intended to be omitted per NYC Department of Buildings version.

c Applies to occupancy groups A, B-1, B-2, and D-1.

d Applies to all occupancy groups other than those described in footnote c.

e See subdivision (i) of section 27-375 of article five of subchapter six of this chapter for additional impact resistance requirements applicable to certain stair enclosures and for certain exceptions to stair enclosure requirements.

f When two or more buildings are constructed on the same lot, and the combined floor area of the buildings does not exceed the limits established by tables 4-1 and 4-2 for any one of the buildings, no fire-resistance rating shall be required for nonbearing portions of the exterior walls of those buildings facing each other, and there shall be no limitation on the permitted amount of exterior openings.

g Fire retardant treated wood complying with the requirements of section 27-328 of article three of subchapter five of this chapter may be used.

h Tabulated ratings apply to buildings over one story in height. In one story buildings roof construction may be of material having 0 hour fire-resistance rating.

i Materials which are not noncombustible, as defined in subchapter two of chapter one of this title, may be used in nonbearing construction elements if they fall into one of the following categories:

1. Materials having a structural base of noncombustible material as defined in subchapter two, and having a surface not over one-eighth inch thick which when tested in accordance with the provisions of reference standard RS 3-2 has a flame spread rating not higher than fifty.

2. Materials which when tested in accordance with the provisions of reference standard RS 3-2 have a surface flame spread rating not higher than twenty-five without evidence of continued progressive combustion, and which are of such composition that surfaces which would be exposed by cutting through the material in any way would not have a flame spread rating higher than twenty-five without evidence of continued progressive combustion.

j Applies to the construction of the street floor and all construction below the level of the street floor in buildings or spaces classified in occupancy group J-2 except where the space below the street floor does not exceed five feet in height.

k Columns supporting the roof of a one-story building shall have the same fire-resistance rating as required for a column supporting one floor in a building of the same construction class.

1. Members supporting loads of not more than two floors or one floor and a roof need not have a fire-resistance rating greater than the floor construction fire-resistance requirement in buildings classified in occupancy groups G, H, and J-2, not including unsprinklered spaces of other occupancies, and in fully sprinklered buildings in occupancy groups E and J-1.

m See subdivision (c) of section 27-987 of article one of subchapter eighteen of this chapter for additional impact resistance requirements applicable to certain elevator enclosures.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Table 3-4 Construction element "Enclosure of vertical . . . shafts"

amended L.L. 26./2004 § 5, eff. Oct. 22, 2004 except that prior to such

date the commissioner of buildings and the fire commissioner may

promulgate rules or take other administrative actions to faciliate the

implementation of such provisions.

Table 3-4-Classification line "Columns, girders, trusses (other than roof trusses) and framing

Table 3-4- amended L.L. 77/1988 § 4 amended L.L. 34/1988 § 1 but repealed L.L. 77/1988 § 3

Footnote 1 added L.L. 77/1988 § 5 added L.L. 34/1988 § 2 but repealed L.L. 77/1988 § 3 Table 3-4 Notes footnote e amended L.L. 26/2004 § 4, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions. Table 3-4 Notes footnote m added L.L. 26/2004 § 4, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

DERIVATION

Formerly § C26-313.3 added LL 76/1968 § 1

Amended LL 39/1972 § 13

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NYC Administrative Code 27-272

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SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 14 CONSTRUCTION CLASSIFICATIONS

§ 27-272 False designation.

No building or space shall be designated a given construction class unless it conforms to the minimum requirements for that class; and no building or space shall be posted, used, designated, or advertised as of a given construction class unless it complies with the minimum requirements of this code for that class.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-313.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-273

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 14 CONSTRUCTION CLASSIFICATIONS

§ 27-273 Minimum requirements.

When a class of construction is utilized which is superior to that required for any particular use, nothing in this code shall be construed to require full compliance with the requirements for the higher class; the designated construction classification of the building or space shall be that of the lesser classification, unless all of the requirements for the higher class are met.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-313.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-274

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-274 Classification.

Buildings or spaces in noncombustible construction group I are those in which the walls, exitways, shafts, structural members, floors, and roofs are constructed of noncombustible materials and assemblies affording the fire-resistance ratings specified in table 3-4. The noncombustible construction group I consists of classes I-A, I-B, I-C, I-D, and I-E.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-275

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-275 Construction class I-A.

Includes buildings and spaces in which the bearing walls and other major structural elements are generally of four-hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-276

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-276 Construction class I-B.

Includes buildings and spaces in which the bearing walls and other major structural elements are generally of three-hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-277

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-277 Construction class I-C.

Includes buildings and spaces in which the bearing walls and other major structural elements are generally of two-hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-278

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-278 Construction class I-D.

Includes buildings and spaces in which the bearing walls and other major structural elements are generally of one-hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.5 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-279

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 15 CONSTRUCTION GROUP I-NONCOMBUSTIBLE

§ 27-279 Construction class I-E.

Includes buildings and spaces in which the bearing walls and other major structural elements generally have no fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-314.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-280

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-280 Classification.

Buildings and spaces in combustible construction group II are those in which the walls, partitions, structural members, floors, and roofs are constructed wholly or partly of combustible materials affording the required degree of fire-resistance specified in table 3-4. The combustible construction group II consists of classes II-A, II-B, II-C, II-D, and II-E.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-281

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-281 Construction class II-A.

Includes heavy timber construction in which fire-resistance is attained by limiting the minimum sizes of wood structural members and the minimum thickness and composition of wood floors and roofs; by avoiding concealed spaces under floors and roofs or by providing fire-stopping protection for these spaces; and by using fastenings, construction details, and adhesives for structural members as required by article seven of subchapter ten of this chapter. The minimum dimensions for framing members shall be prescribed in section 27-623 of article seven of subchapter ten of this chapter, except that members which are protected to provide a fire-resistance rating of at least one hour need not comply with this requirement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-282

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-282 Construction class II-B.

Includes buildings and spaces in which the exterior walls, fire walls, exitways, and shaft enclosures are of noncombustible materials having the required fire-resistance ratings; and in which the floors, roofs, and interior framing are wholly or partly of wood of smaller dimensions than required for class II-A construction, or are of other combustible or noncombustible materials, having the required fire-resistance ratings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-283

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-283 Construction class II-C.

Includes buildings and spaces in which the exterior walls, fire walls, exitways, and shaft enclosures are of noncombustible materials having the required fire-resistance ratings; and in which the floors, roofs, and interior framing are wholly or partly of wood of smaller dimensions than required for class II-A construction, or are of other combustible or noncombustible materials having no fire-resistance ratings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-284

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-284 Construction class II-D.

Includes buildings and spaces in which the exterior walls, bearing walls, floors, roofs, and interior framing are generally of wood or other combustible materials having the required fire-resistance ratings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-285

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 16 CONSTRUCTION GROUP II-COMBUSTIBLE

§ 27-285 Construction class II-E.

Includes buildings and spaces in which the exterior walls are generally of wood or other combustible materials having the required fire-resistance ratings, and in which the bearing walls, floors, roofs, and interior framing are of wood or other combustible materials, generally having no fire-resistance ratings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-315.6 added LL 76/1968 § 1

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NYC Administrative Code 27-286

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 17 MIXED CONSTRUCTION

§ 27-286 Classification.

When two or more classes of construction occur within the same building, the entire building shall be subject to the most restrictive occupancy and size limitations for the classes of construction involved. However, if the occupancies within the different classes of construction are completely separated by construction that meets the fire-resistance rating requirements for fire divisions listed in table 5-2 then each occupancy so separated may, for the purposes of this code, be considered as a separate building ("building section").

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-316.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-287

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 3 OCCUPANCY AND CONSTRUCTION CLASSIFICATION

ARTICLE 17 MIXED CONSTRUCTION

§ 27-287 Restrictions.

In buildings of mixed construction, no structural element shall be supported by construction having a lower fire-resistance rating than that required for the element being supported.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-316.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-288

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 1 GENERAL

§ 27-288 Scope.

The provisions of this article establish building access requirements; shall regulate the division of the city of New York into fire districts and control the occupancy groups and construction classes permitted therein; shall regulate permissible building areas, height and projections beyond the street line and shall establish special flood hazard areas and a regulatory flood datum in the city of New York and regulate permissible occupancies and construction or other improvement below such flood datum within such flood hazard areas.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-400.1 added LL 76/1968 § 1

Amended LL 13/1975 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-289

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 1 GENERAL

§ 27-289 Standards.

The provisions of reference standard RS-4 shall be a part of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-400.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-290

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 1 GENERAL

§ 27-290 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-400.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-291

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 1**10 FIRE DEPARTMENT ACCESS

§ 27-291 Frontage.

Every building, exclusive of accessory buildings, shall have at least eight per cent of the total perimeter of the building fronting directly upon a street or frontage space. For the purposes of this section, building perimeter shall be measured at that story having the maximum enclosed floor area.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-401.1 added LL 76/1968 § 1

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

10

[Footnote 10]: ** Subarticle 1 §§ 27-291, 27-292 designated L.L. 58/1987 § 7.

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NYC Administrative Code 27-292

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 1**10 FIRE DEPARTMENT ACCESS

§ 27-292 Building access.

Provisions shall be made for access by the fire department to every building as follows:

(a) Above Grade. Access shall be provided directly from the outdoors to each story below a height of one hundred feet except to the first story or ground floor, by at least one window or readily identifiable access panel within each fifty feet or fraction thereof of horizontal length of every wall that fronts on a street or frontage space. Windows shall be openable or breakable from both the inside and the outside, and shall have a size when open of at least twenty-four inches by thirty-six inches. Panels shall be openable from both the inside and outside and shall have a height when open of forty-eight inches and a width of at least thirty-two inches. The sill of the window or panel shall not be higher than thirty-six inches above the inside floor.

(b) Below grade. Access shall be provided directly from the outdoors to the first basement or cellar story below grade, except as provided in paragraphs two, three and four of this subdivision, within each one hundred feet or fraction

thereof of horizontal length of every wall that fronts on a street or frontage space. Such access shall be by stairs, doors, windows or other means that provide an opening forty-eight inches high and thirty-two inches wide, the sill of which shall not be higher than thirty-six inches above the inside floor. If an areaway is used to provide below grade access, the minimum horizontal dimension shall be at least one-third the depth of the areaway or six feet whichever is less.

(1) Access to additional stories below grade is not mandatory since they are required to be sprinklered as provided in subdivision k of section 27-954 of article four of subchapter seventeen of this chapter.

(2) One and two-family dwellings need not provide direct access.

(3) Any building classified in occupancy group J-2 not more than three stories in height and with not more than two dwelling units on any story need not provide direct access when such first basement or cellar story is used for dwelling units or for uses accessory to the residential use in the building.

(4) Except as provided in paragraph three of this subdivision, for buildings classified in occupancy group J-1 or J-2 only one direct access from the outdoors to the first basement or cellar story consisting of a stair or door shall be required when such story is used for dwelling units or for uses accessory to the residential use in the building.

(c) Signs. Where wall signs are erected to cover doors or windows of existing buildings, access panels shall be provided as necessary to comply with the requirements of subdivisions (a) and (b) of this section.

(d) Location. Wherever practicable, one access opening in each story shall provide access to a stairway, or where there is no stairway at the exterior wall, one access opening in each story shall be located as close as practicable to a stairway.

(e) Exemptions. The provisions of subdivisions (a) through (d) of this section shall not apply to any story that is completely protected by an automatic sprinkler system conforming to the construction requirements of subchapter seventeen.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-401.2 added LL 76/1968 § 1

Sub b amended LL 61/1969 § 6

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

10

[Footnote 10]: ** Subarticle 1 §§ 27-291, 27-292 designated L.L. 58/1987 § 7.

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NYC Administrative Code 27-292.1

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.1 Scope.

As set forth in this subarticle, buildings shall be provided with accessible routes, usable or adaptable space and accessible elements and facilities to make buildings accessible and usable by, and to establish a safe environment for, all categories of people having physical disabilities.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.
11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-292.2

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.2 Standards.

The pertinent provisions of reference standard RS 4-6 shall be part of this subarticle.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-292.3

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.3 Definitions.

For definitions to be used in the interpretation of this subarticle, see section 27-232 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-292.4

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.4 General requirements.

(a) This subarticle shall apply to all buildings or portions thereof and their accessory areas, except as specified in this subarticle.

(b) The provisions of this subarticle shall be supplemental to and take precedence over less restrictive provisions of this code in the following articles and sections and in their referenced national standards:

(1) Subchapter four, building limitations

a. § 27-308 ramps

(2) Subchapter six, means of egress

a. § 27-357 (d) building access

b. § 27-371 (e) door opening width

c. § 27-377 ramps

(3) Subchapter seven, special uses and occupancies

a. Article ten, public garages

b. Article eleven, open parking structures

c. Article thirteen, open parking lots

d. Article fifteen, swimming pools

(4) Subchapter eight, places of assembly

a. § 27-531 Seating in assembly spaces

(5) Subchapter sixteen, plumbing and gas piping

a. Reference standard RS-16, paragraph (c) of section P104.1 Facilities for physically handicapped

b. Reference standard RS-16, paragraph (d) of section P104.1 accessibility

(6) Subchapter seventeen, fire alarm, detection and extinguishing equipment

c. Article six smoke detecting devices

(7) Subchapter eighteen, elevators and conveyors

a. Reference standard RS 18-1

(c) Facilities in existence on the effective date of this subarticle which comply with the requirements of this subarticle or of other provisions of this code relating to the provision of facilities for people with physical disabilities shall not be diminished to less than those which would be required were the building in which the facilities are located hereafter erected.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-292.5

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.5 Accessibility.

(a) Primary entrance(s).-The primary entrance(s) for buildings shall be accessible, except for buildings classified in occupancy group A, J-3 and/or other spaces which normally are not frequented by the public or employees of the facility.

(b) Exterior accessible route.-Except as provided in this subarticle, buildings shall be provided with an exterior accessible route to permit entry at the primary entrance(s) of the building from the following locations:

(1) Public street or sidewalk

(2) Driveways

(3) Parking areas

(4) Passenger loading zones

(5) Transportation stops

(c) Interior accessible route.-Except as provided in this subarticle, in buildings having (an) interior route(s) to one or more of the following spaces or facilities, such route(s) shall be (an) interior accessible route(s) from the entrance(s) usable by all categories of people having physical disabilities to adaptable or usable dwelling units and other spaces and facilities on the same premises including but not limited to:

(1) Laundry rooms

(2) Refuse disposal locations

(3) Mailbox areas

(4) Recreational, assembly and tenants' meeting rooms

(5) Storage rooms

(6) Management offices

(7) Stores

(8) Dining areas

(9) Parking areas

Where the only route to one or more of such spaces or facilities is an exterior route, such route shall be accessible.

(d) Path of travel.-The path of travel in exterior and interior accessible routes shall provide unobstructed safe access and applicable items in such path of travel shall comply with the requirements set forth in reference standard RS 4-6.

(e) Elevators.-Where provided, all elevators shall comply with subchapter eighteen, reference standard RS 18-1, where an interior accessible route is required.

(f) Assembly occupancies.-For assembly occupancies having a mezzanine or balcony which provides a similar view as that from the main floor, accessibility to the mezzanine or balcony shall not be required provided toilet rooms are on the main floor.

(g) Restaurants.-For restaurants, dining rooms and similar occupancies having the same services on levels other than the main floor, accessibility to such levels shall not be required provided that toilet rooms are on the main floor.

(h) Storage.-For buildings in which the intended use is the storage of goods or merchandise, the only requirement shall be accessibility at the primary entrance and an interior accessible route to offices where business may be conducted.

(i) Non-grade stories of small non-residential buidings.-The following non-residential buildings or parts thereof are exempt from the provisions of this subarticle concerning requirements for people having physical disabilities, to the extent set forth in subdivisions (1) and (2) of this subsection:

(1) construction of such new buildings the total floor area of which is two thousand five hundred square feet or less;

(2) alterations to such building already existing where the alterations are being made to an above-grade story having a total floor area of two thousand five hundred square feet or less or to a below-grade story having a total floor area of two thousand square feet or less.

Notwithstanding the foregoing, floor areas frequented by the public for assembly, governmental, public utility or health facility purposes shall not be exempted unless equivalent functional accessible facilities are provided on the first story.

(j) Where the floor area is more than two thousand five hundred square feet but less than five thousand square feet, a vertical wheelchair lift enclosed in construction having the required fire-resistance rating and connecting not more than two contiguous levels is permitted in lieu of an accessible route as set forth in reference standard RS 4-6.

(k) Where the below-grade cumulative floor area is more than two thousand square feet but not more than five thousand square feet, a vertical wheelchair lift enclosed in construction having the required fire-resistance rating and connecting not more than two contiguous levels is permitted in lieu of an accessible route as set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.6

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SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.6 Waiver of requirements.

(1) The commissioner may waive the requirements of this subarticle or of subdivision (d) of section 27-357 of this code for the alteration of existing buildings, and for any new building for which a formal application together with plans required by such application was filed with an agency of the city or with the battery park city authority prior to September first, nineteen hundred eighty-seven, when such application was required by law or regulation to be approved by such agency; provided, however, that such waiver would not significantly adversely affect provisions for health, safety and security and that equally safe and proper alternatives are prescribed and, further, that such waiver is based upon a specific finding that strict compliance with the requirement:

(a) would create an undue economic burden; or

(b) would not achieve its intended objective; or

(c) would be physically or legally impossible; or

(d) would be unnecessary in light of alternatives which insure the achievement of the intended objective or which, without a loss in the level of safety, achieve the intended objective more efficiently, effectively or economically; or

(e) would entail a change so slight as to produce a negligible additional benefit consonant with the purposes of this code.

(2) Each application for a waiver under subdivision one of this section shall be made to the commissioner in writing, setting forth each requirement sought to be waived and the specific reason or reasons therefor. The commissioner shall determine, under all of the circumstances presented by such application, which of such requirements may appropriately be waived. The commissioner shall render such determination in a writing which shall set forth in detail the commissioner's findings and conclusions with respect to each requirement sought to be waived. A copy of such written determination shall be forwarded to the applicant. Such written determination shall be filed with the department and shall be available for public inspection.

(3) The mayor's office for the handicapped or its successor agency shall be consulted by and shall advise the commissioner concerning each application for a waiver under subdivision (1) of this section.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

Subds. 1, 2, 3, amended L.L. 65/1988 § 1

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.7

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.7 Special requirements of other city departments.

The commissioner upon good cause may waive the requirements of this subarticle for the construction of buildings or spaces, or for the alteration of existing buildings to meet the special requirements of other city departments in regard to any of the following:

(a) Firehouses

(b) Correctional facilities

(c) Cargo handling facilities on the waterfront

(d) Wholesale food markets

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

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NYC Administrative Code 27-292.8

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 2 BUILDING ACCESS*9

SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.8 Adaptable dwelling units.

(a) General require- ments.

(1) Adaptable dwelling units are units that contain habitable rooms, kitchens, kitchenettes and bathrooms in residential buildings other than in occupancy group J-3 which when constructed are on an accessible route (except as set forth in this subdivision) and are constructed and equipped as defined in section 27-232 and as set forth in this subarticle so that they can be converted to be used, with a minimum of structural change, by all categories of people having physical disabilities.

(2) Such units shall be provided with door widths and clear floor spaces for making dwelling units usable as set forth in reference standard RS 4-6 when occupied by people having physical disabilities.

(3) Interior access, floor surfaces, adaptable kitchens, adaptable kitchenettes and adaptable bathrooms in these

dwelling units shall comply with the requirements set forth in reference standard RS 4-6.

(4) Where an adaptable dwelling unit occupies two or more stories within itself, accessibility shall only be required at the first story of such dwelling unit provided that:

a. The second story is accessible from without; or that

b. Equivalent accessible functional facilities are provided on the first story; or that

c. The stair within the dwelling unit has a minimum width of three feet.

(b) Number of adaptable dwelling units.-(1) All dwelling units in buildings with elevators shall be adaptable unless usable dwelling units are provided in accordance with section 27-292.9.

(2) At least one but not less than twenty-five percent of the total number of dwelling units in buildings without an elevator, which have dwelling units on the ground floor and which contain three or more dwelling units, shall be adaptable, unless usable dwelling units are provided in accordance with section 27-292.9. Such adaptable dwelling unit(s) shall be located on the ground floor. Where determination by percentage results in a number containing a decimal of 0.5 or more, the next higher number shall be used, but such number shall not exceed the number of dwelling units actually proposed for the ground floor.

(c) Adaptable bathrooms, kitchens and kitchenettes.-Adaptable bathrooms, kitchens and kitchenettes within adaptable dwelling units shall be constructed and equipped in accordance with requirements set forth in reference standard RS 4-6 with respect to the following:

Access doorway or opening

Clear floor space

Floor surface

Bathroom, kitchen and kitchenette facilities and controls capable of being made usable

Space and utilities for usable range, (or cooktop or oven), refrigerator/freezer, (dishwasher if provided).

Such items shall include water closet and toilet paper dispenser, lavatory and removable base cabinet, mirrors, medicine cabinet, bathtub and controls, bathtub and shower enclosure, reinforced areas for grab bars, clearance between opposing base cabinets, counter tops, appliances and walls, adjustable or replaceable sink and removable base cabinet, as well as storage cabinets, drawers and shelves.

(d) Washing machines and clothes dryers within adaptable dwelling units.-Where washing machines and clothes dryers are located within adaptable dwelling units, they shall comply with or be capable of being converted to the requirements set forth in reference standard RS 4-6.

(e) Emergency warning devices within adaptable dwelling units.-Emergency warning devices within adaptable dwelling units shall be capable of being converted to audible and visual indication as required and to conform to the requirements set forth in subchapter seventeen, article six, reference standard RS 17-11, reference standard RS 17-12 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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§ 27-292.9 Usable dwelling units.

(a) General requirements.-

(1) Usable dwelling units are units in residential buildings in other than occupancy group J-3 which are accessible, constructed and equipped, as defined in section 27-232 and as set forth in this subarticle, so as to be usable by people having physical disabilities. A usable dwelling unit shall be established by conversion from an adaptable dwelling unit when the unit becomes occupied by a person having a physical disability.

(2) Access, storage, controls, windows, doors, floor surfaces, kitchens, kitchenettes and bathrooms, appliances and emergency warning devices in these units shall comply with the requirements set forth in reference standard RS 4-6.

(b) Number of usable dwelling units. (1) Hotels-In lieu of the requirements of section 27-292.8 in buildings in

occupancy group J-1 having ten or more units, not less than five percent of the total number of units shall be constructed as usable units. In all buildings in occupancy group J-1 there shall be available portable smoke detectors of both audible and visual design. The number of detectors available shall be three percent of the number of sleeping rooms with a minimum of one operational detector per building. Proprietors shall post conspicuously a sign at least three inches in height, at the main desk or other similar station, advising of the availability of such detectors. Such detectors shall have a flash frequency range of sixty to one hundred twenty flashes per minute; and, where the average illuminance with motion present is more than twenty lumens per square foot, the visible signaling appliance shall have an effective intensity rating between one hundred and one thousand candela. Hard wiring of audible/visual detectors into an existing central closed-circuit alarm system shall be permitted in lieu of such portable detectors. Where determination by percentage results in a number containing a decimal of 0.5 or more, the next higher number shall be used. Notwithstanding the foregoing, entrance doors to all dwelling units in occupancy group J-1 having ten or more units, and to all bathrooms in such units, shall be no less than thirty-two inches in width.

(2) Adult residential care facilities.-All units in adult residential care facilities shall be usable. "Adult residential care facility" shall mean a family type home for adults, a shelter for adults, a residence for adults, an enriched housing program or an adult home, which contains three or more dwelling units and which provides board and temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care, are by reason of physical or other limitations associated with age, physical or mental disabilities or other factors unable or substantially unable to live independently. Such facilities shall be considered to be within occupancy group J-2.

(c) Usable bathrooms, kitchens and kitchenettes.-Usable bathrooms, kitchens and kitchenettes within usable dwelling units shall be constructed and equipped in accordance with requirements set forth in reference standard RS 4-6 with respect to the following:

Access doorway or opening

Clear floor space

Floor surface

Bathroom, kitchen and kitchenette facilities and controls

Space and utilities for usable range, (or cooktop or oven), refrigerator/freezer, (dishwasher if provided).

Such items shall include usable water closet and toilet paper dispenser, lavatory and base cabinet, bathtub and controls, bathtub and shower enclosure, grab bars, clearance between opposing base cabinets, counter tops, appliances and walls, sink and base cabinet.

(d) Washing machines and clothes dryers within usable dwelling units.-Where washing machines and clothes dryers are located within usable dwelling units, they shall comply with or be capable of being converted to the requirements set forth in reference standard RS 4-6.

(e) Emergency warning devices within usable dwelling units.-Emergency warning devices within usable dwelling units shall be capable of being converted to audible and visual indication as required and to conform to the requirements set forth in subchapter seventeen, article six, reference standard RS 17-11, reference standard RS 17-12 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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SUBARTICLE 2*11 FACILITIES FOR PEOPLE HAVING PHYSICAL DISABILITIES

§ 27-292.10 Usable spaces.

(a) Functional spaces and rooms.

(1) Except as otherwise provided in section 27-292.5, spaces and rooms intended for general public and occupant use shall be accessible and usable. Such spaces and rooms include but are not necessarily limited to the following:

Mercantile spaces

Industrial spaces

Business spaces

Assembly spaces

Educational spaces

Institutional spaces

Toilet rooms

Bathrooms, bathing facilities, shower rooms.

(2) Doors and floor surfaces in usable spaces shall comply with the requirements set forth in reference standard RS 4-6.

(3) Where seating, tables and/or work stations are provided in usable spaces, at least one and not less than five percent shall comply with the requirements set forth in reference standard RS 4-6.

(b) Toilet rooms.-(1) The location and number of water closets, urinals and lavatories shall be provided in accordance with the requirements set forth in table RS 16-5.

(2) Except where exempted in subdivision (i) of section 27-292.5 or section 27-292.6, facilities for people having physical disabilities shall be provided in toilet rooms or in a readily accessible location. Where such toilet room is designed for use by not more than one person at a time and has provision for locking from the inside, such toilet room shall be permitted to be used by either sex.

(3) Where toilet rooms are not accessible by elevator, they shall be located so that people having physical disabilities need not travel more than one story thereto by ramp.

(c) Bathing facilities.-(1) The location and number of plumbing fixtures shall be provided in accordance with the requirements set forth in table RS 16-5 and in reference standard RS 4-6.

(2) Each required bathing facility shall be accessible and at least one of each type of fixture or accessory that is provided in such bathing facility shall comply with the requirements set forth in table RS 16-4 and in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.11

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§ 27-292.11 Assembly spaces.

(a) Assembly spaces other than places of assembly shall be provided with a minimum of accessible wheelchair viewing positions as follows:

Capacity of Assembly Spaces	Number of Viewing Positions
1 to 25	Minimum 1
26 to 50	Minimum 2
51 to 74	Minimum 3

(b) Places of assembly shall be provided with accessible wheelchair viewing positions in accordance with subparagraph h of paragraph (1) of subdivision (a) of section 27-531.

(c) Size and placement of wheelchair location, surfaces, access to performing area and listening systems, where

required, shall comply with the provisions of reference standard RS 4-6. These positions may be utilized by persons who do not use wheelchairs provided that the positions are delineated on the approved seating plans, the seating is readily removable and the positions are unsold one full working day before the performance.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.12

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§ 27-292.12 Public toilet rooms.

Where public toilet rooms are provided, there shall be at least one water closet stall and lavatory fixture for each sex which is accessible to and usable by people having physical disabilities and complies with the requirements of paragraph (c) of section P104.1 of reference standard RS 16-1 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.
11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.13

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§ 27-292.13 Drinking fountains.

(a) Location and number of drinking fountains shall be provided in accordance with the requirements set forth in table 16-5.

(b) At least one drinking fountain on a story on which drinking fountains are provided shall be accessible and comply with the requirements set forth in reference standard RS 4-6.

(c) Where outside drinking fountains are provided, at least one shall be accessible and comply with the requirements set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

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NYC Administrative Code 27-292.14

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§ 27-292.14 Public telephones.

At each location where public telephones are provided, at least one telephone shall be accessible and usable by people who use wheelchairs and at least one telephone shall be accessible and usable by persons with hearing impairment, and each such accessible telephone shall comply with the requirements set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.15

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§ 27-292.15 Alarms.

Where emergency warning systems are provided in spaces used by people having physical disabilities such systems shall comply with the requirements set forth in reference standard RS 4-6. Portable audible/visual smoke detecting devices in existing group J-1 occupancies shall comply with the provisions of paragraph (1) of subdivision (b) of section 27-292.9.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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§ 27-292.16 Controls and operating mechanisms.

Where controls and operating mechanisms for light switches, dispensers, alarms and other similar devices are provided, they shall be accessible and comply with the requirements set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.
11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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§ 27-292.17 Tactile warnings.

Tactile warnings shall be provided at hazardous locations on floors, doors, stairs, hazardous vehicular areas and pools, and shall comply with applicable requirements as set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.
11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

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NYC Administrative Code 27-292.18

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§ 27-292.18 Signage.

(a) Symbols of accessibility shall be provided at the following locations:

Parking spaces designated as reserved for people having physical disabilities

Passenger loading zones

Public toilet and bathing facilities

Drinking fountains

Public telephones

(b) Information and directional signage shall be provided where deemed necessary.

(c) Symbols and characters shall comply with the applicable requirements set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.19

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§ 27-292.19 Parking spaces.

(a) Where parking areas or garages are provided, at least one parking space but not less than five percent of the total number of parking spaces provided shall be suitable for use by people having physical disabilities. Where determination by percentage results in a number containing a decimal of 0.5 or more, the next higher number shall be used.

(b) Location, space, size and signage for parking spaces suitable for use by people having physical disabilities shall comply with provisions set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.

11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

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NYC Administrative Code 27-292.20

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§ 27-292.20 Passenger loading zones.

Where passenger loading zones are provided, location and access aisles for at least one vehicle (with respect to multiple dwellings) or zones (with respect to other buildings) shall comply with the requirements set forth in reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 8

FOOTNOTES

9

[Footnote 9]: ** Article heading added L.L. 58/1987 § 7.
11

[Footnote 11]: * Subarticle added L.L. 58/1987 § 8.

Administrative Code of the City of New York

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NYC Administrative Code 27-293

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ARTICLE 3 FIRE DISTRICTS

§ 27-293 Inside fire districts.

The following city areas are hereby established as being inside the fire districts:

(a) All of the borough of Manhattan.

(b) All of the borough of Bronx.

(c) All of the borough of Brooklyn.

(d) Such portions of the boroughs of Staten Island and Queens as are indicated on the "fire district maps" (reference standards RS4-1 and RS4-2).

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-402.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-294

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ARTICLE 3 FIRE DISTRICTS

§ 27-294 Outside fire districts.

All areas not included inside the fire districts shall be designated as outside fire districts.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-402.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-295

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ARTICLE 3 FIRE DISTRICTS

§ 27-295 Mixed districts.

Any building located on the boundary line of a fire district, so that it is both inside and outside the district, shall be of a type of construction required for the fire districts if more than twenty-five per cent of the total floor area of the building is located therein.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-402.3 added LL 76/1968 § 1

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NYC Administrative Code 27-296

Administrative Code of the City of New York

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ARTICLE 4 LIMITATIONS INSIDE THE FIRE DISTRICTS

§ 27-296 Limitations.

No buildings in those combinations of construction classes and occupancy groups prohibited by tables 4-1 and 4-2 shall be erected inside the fire districts or shall be moved from outside to inside the fire districts, or from one lot to another inside the fire districts. No building or space classified in occupancy group J-1 or J-2 may be located on a lot containing a building classified in construction group IE, IID or IIE.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-403.1 added LL 76/1968 § 1

Amended LL 61/1969 § 7

Administrative Code of the City of New York

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NYC Administrative Code 27-297

Administrative Code of the City of New York

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ARTICLE 4 LIMITATIONS INSIDE THE FIRE DISTRICTS

§ 27-297 Exemptions.

The following constructions shall be exempt from the provisions of section 27-296 of this article:

(a) One- or two-family dwellings. One- or two-family detached or semi-detached dwellings of two stories or less in height and two thousand five hundred square feet or less in area located within zoning residence districts may be constructed or reconstructed of construction groups II-D combustible materials, or if damaged for any cause, only the damaged portions shall be required to be reconstructed to conform to IID construction. In addition, one-family dwellings located within zoning residence district anywhere in the city, may be of combustible group IIE construction in conformance with the area and height limits established by tables 4-1 and 4-2.

(b) Fences. Fences not over six feet high may be erected of wood or other combustible material.

(c) Storm enclosures, bay windows, etc. Storm enclosures, bay windows and similar appendages may be constructed of combustible materials in accordance with the provisions of section 27-336 of article four of subchapter five of this chapter.

(d) Accessory buildings for open parking lots. Parking lot offices and similar accessory buildings not more than ten feet high and not more than one hundred fifty square feet in area may be constructed of combustible materials when on the same lot or accessory to a lot used for motor vehicle parking, and when located at least six feet from any lot line or building.

(e) Temporary structures. Temporary platforms, reviewing stands, and similar miscellaneous structures may be constructed of combustible materials and used for a limited period of time, subject to the approval of the commissioner.

(f) Greenhouse. Greenhouses may be constructed of combustible materials when accessory to a one- or two-family dwelling on the same lot and when located at least six feet from any lot line or building.

(g) Roof structures. Cooling towers, antenna supports, and other roof structures may be constructed of combustible materials in accordance with the provisions of section 27-338 of subchapter five of this chapter.

(h) Bins, tanks, and towers. Coal and material bins, water towers, tank structures, and trestles may be constructed of wood planking and timbers of dimensions not less than as required for class II-A construction when not over thirty-five feet high and having an exterior separation of a least thirty feet.

(i) Signs. Ground signs, wall signs, roof signs, and temporary signs may be constructed of combustible materials within the limitations established in article eighteen of subchapter seven of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-403.2 added LL 76/1968 § 1

Amended LL 4/1974 § 1

Sub a amended LL 52/1975 § 1

(Section number, heading, open par laid out)

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NYC Administrative Code 27-298

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ARTICLE 4 LIMITATIONS INSIDE THE FIRE DISTRICTS

§ 27-298 Additions to existing buildings.

No building inside the fire districts may be increased in area or height to exceed the limitations of tables 4-1 and 4-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-403.3 added LL 76/1968 § 1

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ARTICLE 5 LIMITATIONS OUTSIDE THE FIRE DISTRICTS

§ 27-299 Limitations.

No buildings in those combinations of construction classes and occupancy groups prohibited by tables 4-1 and 4-2 shall be erected outside the fire districts. No building or space classified in occupancy group J-1 or J-2 may be located on a lot containing a building classified in construction group IE, IID or IIE. No building classified in construction group IE, IID, or IIE shall be located on a lot containing a building or space classified in occupancy group J-1 or J-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-404.1 added LL 76/1968 § 1

Amended LL 61/1969 § 8

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ARTICLE 5 LIMITATIONS OUTSIDE THE FIRE DISTRICTS

§ 27-300 Additions to existing buildings.

No building outside of the fire districts may be increased in area or height to exceed the limitations of tables 4-1 and 4-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-404.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-301

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 6 AREA LIMITATIONS

§ 27-301 Area limitations of buildings.

No building or building section shall be constructed or altered so as to exceed the area limits established by tables 4-1 and 4-2 based on the occupancy group classification of the building or building section, except as these may be specifically modified by other provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-405.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-302

Administrative Code of the City of New York

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ARTICLE 6 AREA LIMITATIONS

§ 27-302 Area limitations of spaces.

No occupancy within a building or building section shall be constructed or altered so as to exceed in total cumulative area the area limits established by tables 4-1 and 4-2, except as these may be specifically modified by other provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-405.2 added LL 76/1968 § 1

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NYC Administrative Code 27-303

Administrative Code of the City of New York

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ARTICLE 6 AREA LIMITATIONS

§ 27-303 Frontage increase.

When a building has more than twenty-five per cent of the total perimeter of the building fronting directly upon a street or frontage space, the tabular areas listed in tables 4-1 and 4-2 may be increased 1.33 per cent for each one per cent of such excess frontage.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-405.3 added LL 76/1968 § 1

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NYC Administrative Code 27-304

Administrative Code of the City of New York

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ARTICLE 6 AREA LIMITATIONS

§ 27-304 Existing excessive area.

Any building existing on December sixth, nineteen hundred sixty-eight that exceeds the maximum allowable area permitted under the provisions of this section, may be enlarged if the addition is separated from the existing building by a fire division meeting the requirements of subchapter five of this chapter, and if the additional area does not exceed the limits established by tables 4-1 and 4-2 for the specific occupancy group and construction class.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-405.4 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-305

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 7 HEIGHT LIMITATIONS

§ 27-305 Height limitations of buildings.

No building or building section shall be constructed or altered so as to exceed the height limits established by tables 4-1 and 4-2 based on the occupancy group classification of the building or building section, except as these may be specifically modified by other provisions of this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-406.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-306

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 7 HEIGHT LIMITATIONS

§ 27-306 Measurement.

In applying the provisions of this code governing height limits, the following appurtenant structures shall not be included in the height of the building unless the aggregate area of all such structures exceeds thirty-three and one-third percent of the area of the roof of the building upon which they are erected:

(a) Roof tanks and their supports.

(b) Ventilating, air conditioning, and similar building service equipment.

(c) Roof structures, bulkheads, and penthouses.

(d) Chimneys.

(e) Parapet walls four feet or less in height.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-406.2 added LL 76/1968 § 1

Amended LL 5/1971 § 2

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Administrative Code of the City of New York

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NYC Administrative Code 27-307

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-307 Permissible projections beyond the street line.

No part of a new building, or of any alteration or addition to an existing building, shall be constructed to extend beyond the street line, except as specifically provided in this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-407.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-308

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-308 Ramps.

(a) When a building erected prior to December sixth, nineteen hundred sixty-nine is altered to provide access to individuals who use wheelchairs, ramps constructed to provide such access may, with the approval of the commissioner, project beyond the street line for a distance of not more than forty-four inches.

(b) Ramps shall comply with the applicable provisions of reference standard RS 4-6.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 58/1987 § 9

DERIVATION

Formerly § C26-407.2 added LL 83/1973 § 1

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NYC Administrative Code 27-309

Administrative Code of the City of New York

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CHAPTER 1 BUILDING CODE

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ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-309 Special restrictions.

The provisions of this subchapter shall not authorize any projections beyond the street line on those streets where removal of all, or certain, projects has been directed by any action of the board of estimate or the former board of estimate and apportionment, or which has been, or may be, directed by any action of the council or the board of estimate, except those projections that are permitted in conformity with such actions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-407.3 added LL 76/1968 § 1

Renumbered LL 83/1973 § 1

(formerly § C26-407.2)

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NYC Administrative Code 27-310

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-310 Projections removable.

All projections permitted beyond the street line by the provisions of this subchapter shall be constructed so that they may be removed at any time without endangering the structural safety or fire safety of the building except that footings as permitted under subdivision (a) of section 27-314 of article nine of this subchapter need not be removable.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-407.4 added LL 76/1968 § 1

Renumbered LL 83/1973 § 1

(formerly § C26-407.3)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-311

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-311 Permission revocable.

Any permission, expressed or implied, permitting the construction of projections within the area of the street under the provisions of this subchapter shall be revocable by the council or the board of estimate, except footings as permitted under subdivision (a) of section 27-314 of article nine of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-407.5 added LL 76/1968 § 1

Renumbered LL 83/1973 § 1

(formerly § C26-407.4)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-312

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 8 GENERAL PROJECTION LIMITATIONS

§ 27-312 Existing projections.

Any part of a building that projects beyond a street line on January first, nineteen hundred thirty-eight may be maintained as constructed until its removal is directed by the council or the board of estimate.

(a) Alterations. Alterations to existing projections beyond the street line may be permitted in whole or in part, provided that such alterations conform with the requirements of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-407.6 added LL 76/1968 § 1

Renumbered LL 83/1973 § 1

(formerly § C26-407.5)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-313

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 9 PERMISSIBLE PROJECTIONS BEYOND STREET LINES

§ 27-313 Projections above grade.

Subject to the provisions of article eight of this subchapter the following projections may be constructed, above grade, to project beyond the street line:

(a) Fixed Projections. Fixed projections are those elements listed below, generally of an architectural character, that form an integral part of the building facade. The aggregate area of all fixed projections constructed to extend beyond the street line shall not exceed ten square feet within any one hundred square feet of wall area, except that a veneer may be applied to the entire facade of a building erected before December sixth, nineteen hundred sixty-eight, if such veneer does not project more than four inches beyond the street line. The area of any fixed projection shall be measured at that vertical plane, parallel to the wall, in which the area of the projection is greatest. This plane of measurement may be at the street line, the line of maximum projection, or any point in between.

(1) ENTRANCE DETAILS. Entrance details, including steps, and doors when fully open, may be constructed to project beyond the street line not more than eighteen inches. Entrance steps that project beyond the street line shall be guarded at each end by railings or check pieces at least three feet high or by other members of the entrance detail providing equivalent protection.

(2) ARCHITECTURAL DETAILS. Details such as cornices, eaves, bases, sills, headers, band course, opening frames, sun control devices, rustications, applied ornament or sculpture, grilles, windows when fully open, air conditioning units, and other similar elements may be constructed to project not more than four inches beyond the street line when less than ten feet above the ground or sidewalk level, and not more than ten inches beyond the street line when more than ten feet above the ground or sidewalk level.

(3) BALCONIES. Balconies, including railings and supporting brackets, no parts of which are less than ten feet above the ground or sidewalk level, may be constructed to project not more than twenty-two inches beyond the street line. When permitted by the provisions of subchapter six of this chapter, fire escapes that are part of a required exit may be constructed to project not more than four feet six inches beyond the street line provided no part, including any movable ladder or stair, is lower than ten feet above the ground or sidewalk level when not in use.

(4) MARQUEES. Marquees may be erected on public buildings, theaters, hotels, terminals, large department stores, supermarkets, multi-family dwellings, and similar buildings of an essentially public nature, or upon a warehouse or market in an established market area as designated by reference standard RS 4-3, so as to project beyond the street line, but not nearer than two feet to the curb line, provided that no parts of such marquees are less than ten feet above the ground or sidewalk level. Marquees must not be more than two feet to curb lines hereafter established or changed. When measured from top to bottom, marquees shall not be thicker nor shall the fascia be higher than three feet. This dimension shall include all decorations, but shall exclude any tension supports suspending the marquee from the wall. Marquees shall be supported entirely from the building and be constructed of noncombustible materials,except that the roof or any part of the roof may contain skylights complying with the requirements of subdivision (d) of section 27-338 of article four of subchapter five of this chapter. Marquee roofs shall be drained in accordance with the provisions of subchapter sixteen of this chapter. When the occupancy or use of a building with a marquee projecting beyond the street line is changed to an occupancy or use for which a marquee is not permitted by this section the marquee shall be removed.

(5) LIGHT FIXTURES. Light fixtures that are supported entirely from the building may be constructed to project not more than two feet beyond the street line, provided no part of the fixture is less than eight feet above the ground or sidewalk level.

(6) FLAGPOLES. Flagpoles that are supported entirely from the building may be constructed to project not more than eighteen feet beyond the street line, but not closer than two feet to the curb line, provided that no part of the flagpole is less than fifteen feet above the ground or sidewalk level.

(7) WALL SIGNS. Wall signs may be constructed to project not more than twelve inches beyond the street line when conforming to the requirements of subchapter seven of this chapter.

(8) PROJECTING SIGNS. Projecting signs may be constructed to project not more than ten feet beyond the street line, but not closer than two feet to the curb line, when conforming to the requirements of subchapter seven of this chapter, and provided that no part of the sign is less than ten feet above the ground or sidewalk level.

(b) Awnings. Awnings supported entirely from the building may be constructed to project beyond the street line as follows:

(1) STORE FRONT AWNINGS. Store front awnings may be constructed to project beyond the street line not more than eight feet, provided no part of the awning is less than eight feet above the ground or sidewalk level, except for a flexible valance, which may be not less than seven feet above the ground or sidewalk level, and provided that the awning box or cover does not project more than twelve inches.

(2) AWNINGS. Awnings over windows or doors may be constructed to project beyond the street line not more than five feet, provided that no part of the awning is less than eight feet above the ground or sidewalk level.

(3) CONSTRUCTION. Awnings shall be constructed of a noncombustible frame covered with flameproofed canvas or cloth, slow-burning plastic, sheet metal, or other equivalent material.

(c) Storm Enclosures. Storm enclosures projecting not more than eighteen inches beyond the street line may be permitted during the period between November fifteenth and the following April fifteenth. Such enclosures shall be removed at the end of this period. Construction shall follow the requirements of section 27-336 of subchapter five of this chapter.

(d) Bridges Between Buildings. Bridges connecting buildings, and projecting beyond street lines, may be constructed subject to the approval of the board of estimate and the department of highways. Such bridges shall be of a construction class that is at least equal to the higher class of the two buildings connected, and shall otherwise comply with the provisions of this code and other applicable laws and regulations.

(e) Sidewalk cafes. (1) Enclosures for sidewalk cafes, where permitted by the commissioner of consumer affairs, may be provided beyond the building line, within a street, provided such enclosures are constructed of incombustible material or slow-burning plastic or other material which will not support combustion, and provided the sides of such enclosures do not extend more than eight feet above the sidewalk.

(2) Awnings supported entirely from the building may be placed over sidewalk cafes provided they are at least eight feet clear above the sidewalk and provided they are within the limits specified by the commissioner of consumer affairs. Such awnings shall be supported on metal frames and constructed of canvas treated to render it fire-resistive or other material which will not support combustion.

(3) No part of any awning, enclosure, fixture or equipment of a sidewalk cafe shall be located beneath a fire-escape so as to obstruct operation of fire-escape drop ladders or counter-balanced stairs or to obstruct any exit from a building.

(4) a. Removable platforms shall be constructed to provide for a continuous unbroken and level floor without openings or cracks so as to prevent any material or liquid from falling through to the area beneath; no papers, trash or other materials may be permitted to accumulate in the area beneath the floor of the platform.

b. No part of the platform shall obstruct an exit from any building.

c. No part of the platform shall cover a cellar entrance, areaway or other vent, except that an easily removable section, prominently designated, will be permitted if acceptable to the commissioner.

d. No siamese connection or hydrant may be obstructed in any way that would hinder its use by the fire department.

(5) In addition to the requirements specified herein, the commissioner may promulgate such additional regulations necessary to secure safety.

(f) Curb cuts. The lowering of any curb or the change of grade of any sidewalk for the purpose of providing a driveway across such curb or sidewalk shall be constructed in accordance with the specifications prescribed in section 27-558 of article three of subchapter nine of this chapter or as required by the commissioner. The commissioner shall limit the length of any curb cut for the purpose of providing a driveway across such curb or sidewalk, when in the opinion of the commissioner the actual use or intended use of such driveway would endanger the public. The owner shall maintain every part of such driveway in accordance with the specifications prescribed in section 27-558 of article three of subchapter nine of this chapter. Where the vehicular use of such driveway, in the opinion of the commissioner is dangerous to the public, the commissioner shall order the owner to discontinue use of such driveway and restore the curb and sidewalk as required by the department of transportation. Upon the failure of the owner to comply with such order, the commissioner may inform the commissioner of transportation of such failure to comply and request the

cooperation of the commissioner of transportation acting under his or her authority pursuant to section twenty-nine hundred four of the New York city charter in the enforcement of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-408.1 added LL 76/1968 § 1

Subs e, f added LL 8/1974 § 1

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ARTICLE 9 PERMISSIBLE PROJECTIONS BEYOND STREET LINES

§ 27-314 Projections below grade.

Subject to the provisions of article eight of this subchapter the following projections may be constructed below grade to project beyond the street line:

(a) Footings. Exterior wall and column footings may be constructed to project beyond the street line not more than twelve inches, provided that the top of the footing is not less than eight feet below the ground or sidewalk level.

(b) Foundation Walls. Foundation walls required to support permitted projections may be constructed to project not more than the permitted projection beyond the street line.

(c) Vaults. Vaults licensed by the commissioner of transportation may be constructed to project beyond the street line but not beyond the curb line. Vault covers shall be set flush with the sidewalk and surfaced with non-skid material.

(d) Tunnels Between Buildings. Tunnels connecting buildings, and projecting beyond street lines, may be constructed subject to the approval of the board of estimate and the department of transportation.

Such tunnels shall comply with the provisions of this code and other applicable laws and regulations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-408.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-315

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 9 PERMISSIBLE PROJECTIONS BEYOND STREET LINES

§ 27-315 Restrictions on construction and projections on certain streets, parkways, boardwalks and beaches.

Notwithstanding the foregoing provisions of this article, it shall be unlawful to build, erect, make areaways, steps or other projections prohibited by sections 19-131, 19-132, 19-135, 18-109, 18-112 and 18-113 of the code.

HISTORICAL NOTE

Section amended L.L. 104/1993 § 6, eff. Jan. 27, 1994.

Section added chap 907/1985 § 1.

DERIVATION

Formerly § C26-408.3 added LL 54/1970 § 3

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NYC Administrative Code 27-316

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CHAPTER 1 BUILDING CODE

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ARTICLE 10 GENERAL LIMITATIONS ON OCCUPANCY AND CONSTRUCTION WITHIN SPECIAL FLOOD HAZARD AREAS

§ 27-316 Permit restrictions.

Within special flood hazard areas, as delineated in reference standard RS4-4, applications for permits shall be subject to the following:

(a) Permissible uses and other measures to reduce flood losses shall take precedence over any conflicting laws.

(b) Major repairs or alterations shall be with construction materials and utility equipment that are resistant to flood damage, and use construction methods and practices that will minimize flood damage.

(c) New and proposed construction or substantial improvements shall be protected against flood damage, be designed (or modified) and anchored to prevent flotation, collapse or lateral movements of the structure, use construction materials and utility equipment that are resistant to flood damage, and use construction methods and practices that will minimize flood damage.

(d) New and proposed developments and construction shall minimize flood damage, locate, elevate and

construct all public utilities such as gas, sewer, electrical and water systems to minimize or eliminate flood damage, and provide adequate drainage so as to reduce exposure to flood hazards.

(e) New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems, and discharges from the systems into floodwaters, and require on-site disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(f) Subdivision proposals and other proposed new developments and construction shall (i) minimize flood damage, (ii) have all public utilities, such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage, and (iii) provide adequate drainage so as to reduce exposure to flood hazards.

(g) Upon placement of the lowest floor, or flood-proofing by any means, the holder of any permit to which this section applies shall submit to the department a certification of the elevation of the lowest floor, or where applicable of the lowest flood-proofed elevation, in relation to mean sea level. Provided, however, that in areas designated as Zone V in reference RS 4-4, such permit holder shall certify to the department the elevation, in relation to mean sea level, of the botton*12 of the lowest structural member of the lowest floor. Such certification shall be prepared by a registered architect or licensed professional engineer.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (g) added L.L. 33/1988 § 3

Subd. (h) relettered L.L. 33/1988 § 3 (former subd. (g))

DERIVATION

Formerly § C26-409.1 added LL 13/1975 § 2

FOOTNOTES

12

[Footnote 12]: * So in original.

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SUBCHAPTER 4 BUILDING LIMITATIONS

ARTICLE 10 GENERAL LIMITATIONS ON OCCUPANCY AND CONSTRUCTION WITHIN SPECIAL FLOOD HAZARD AREAS

§ 27-316.1 Permit application contents.

Applications for permits for construction within special flood hazard areas, as delineated in reference standard RS 4-4, shall contain the following information:

(a) the elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar);

(b) for non-residential structures, the elevation in relation to mean sea level to which such structure will be flood-proofed;

(c) a certification from a registered architect or licensed professional engineer that heating, ventilation, air conditioning, plumbing, electrical and other services facilities within the structure will be located or constructed so as to prevent water from entering or accumulating within the components during conditions of flooding;

(d) for non-residential structures intended to be floodproofed, a certification from a registered architect or licensed professional engineer that the flood-proofing design and methods of construction of such structure are in

accordance with reference standard RS 4-5 and with accepted standards of practice to make such structure watertight, with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(e) for structures within Zone V, as delineated in reference standard RS 4-4, a certification from a registered architect or licensed professional engineer that the design and methods of construction of such structure are in accordance with reference standard RS 4-5 and with accepted standards of practice for meeting the requirements of subdivision (f) of section 27-317 of this code; and

(f) a description, where applicable, of the extent to which any watercourse will be altered or relocated as a result of the proposed work.

HISTORICAL NOTE

Section added L.L. 33/1988 § 4

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ARTICLE 10 GENERAL LIMITATIONS ON OCCUPANCY AND CONSTRUCTION WITHIN SPECIAL FLOOD HAZARD AREAS

§ 27-317 Occupancy and construction restrictions.

(a) Within special flood hazard areas, as delineated in reference standard RS 4-4, no building in occupancy group classification J1, J2 or J3 shall be constructed or altered so as to have the lowest floor below the base flood elevation.

(b) New construction or substantial improvements of non-residential buildings within special flood hazard areas, as delineated in reference standard RS 4-4, shall have the lowest floor elevated to or above the base flood elevation; or, together with attendant utilities and sanitary facilities, shall be floodproofed up to the level of the base flood elevation, in accordance with the requirement of reference standard RS 4-5. Provided, however, that new construction or substantial improvements of non-residential buildings within area designated as Zone V in reference standard RS 4-4 shall meet the requirements of subdivision (f) of this section.

(c) Any encroachment in the floodway, as delineated in reference standard RS 4-4, including fill, new construction, substantial improvement, or any other development that would result in any increase in flood levels within the community during the occurrence of the base flood discharge, shall be prohibited.

(d) Manufactured homes shall be anchored to resist flotation, collapse or lateral movement and shall be elevated on a permanent foundation to or above the base flood elevation or, when no base flood elevation has been determined, two feet above the highest adjacent grade. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. No park trailers or travel trailers shall be permitted within special flood hazard areas, as delineated in reference standard RS 4-4.

(e) In the case of alterations constituting a substantial improvement to parts of non-residential and non-institutional buildings below the base flood elevation, all parts below the base flood elevation need comply with the applicable requirements of reference standard RS 4-5.

(f) All new construction and substantial improvements of buildings within Zone V, as delineated in reference standard RS 4-4, shall be performed pursuant to the provisions of RS 4-5. Such construction and improvements shall have the lowest floor elevated on adequately anchored pilings or columns and securely anchored to such piles or columns to prevent flotation, collapse or lateral movement resulting from the simultaneous action of wind and water loads on all building components, and the lowest portion of the structural members of the lowest floor, other than the pilings or columns, shall be elevated to or above the base flood elevation. For purposes of this subdivision, wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (one hundred year mean recurrence interval). In addition:

(1) The installation of anchoring to anchored pilings or columns shall be subject to controlled inspection.

(2) The space below the lowest floor shall be free of obstruction or, alternatively, such space shall be constructed with break-away walls of an open lattice type construction which is intended to collapse under stress from abnormally high tides or wind driven water without jeopardizing the structural support of the building. Such space shall not be used for human habitation.

(3) The use of fill for structural support of buildings within Zone V shall not be permitted.

(4) The man-made alteration of sand dunes within Zone V which would increase potential flood damage to buildings shall not be permitted.

(5) All new construction within Zone V shall be located landward of the reach of mean high tide.

(g) All new construction and substantial improvements of buildings within Zone A, as delineated in reference standard RS 4-4 shall be performed pursuant to the provisions of reference standard RS 4-5. Where such construction or improvement is not floodproofed, any fully enclosed space below the lowest floor that is subject to flooding, as defined in section 27-317.1 of this code, shall be designed to equalize hydrostatic flood forces on exterior walls automatically (without human intervention) by allowing for the entry and exit of floodwaters. Design for meeting this requirement shall be certified by a registered architect or licensed professional engineer or shall meet or exceed the following minimum criteria:

(1) A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed space subject to flooding, shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(h) When used within special flood hazard areas, as delineated in reference standard RS 4-4, breakaway walls shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of a breakaway wall which exceeds a design safe loading resistance of twenty pounds per square foot shall be permitted only

if a registered architect or licensed professional engineer certifies that the proposed design meets the following conditions:

(1) Breakaway wall collapse will result from a water load less than that which would occur during the base flood; and

(2) the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind and water loading values used in this determination shall each have a one percent chance of being equalled or exceeded in any given year (one hundred year mean recurrence interval).

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subds. (a), (b), (d), (f) amended L.L. 33/1988 § 5

Subds. (g), (h) added L.L. 33/1988 § 6

DERIVATION

Formerly § C26-409.2 added LL 13/1975 § 2

Amended LL 58/1983 § 1

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ARTICLE 10 GENERAL LIMITATIONS ON OCCUPANCY AND CONSTRUCTION WITHIN SPECIAL FLOOD HAZARD AREAS

§ 27-317.1 Definitions for special flood hazard areas.

The following definitions shall supplement the definitions that appear in article two of subchapter two of this chapter and shall apply only to the provisions of article ten of subchapter four of this chapter and to the reference standards contained therein:

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain delineated in reference standard RS 4-4 as subject to a one percent or greater chance of flooding in any given year. Such area is designated on the Flood Insurance Rate Map (FIRM) as Zone A, AE, AH, A1-99, V, VE or V1-30. Such area is also known as the base flood plain or one hundred year flood plain.

BASEFLOOD. The flood having a one percent chance of being equalled or exceed in any given year.

BASEFLOOD ELEVATION. The level (in feet) indicated on the Flood Insurance Rate Map (FIRM).

BREAKAWAY WALL. A wall that is not part of the structural support of the building to which it is attached

and is intended through its design and construction to collapse under specific later loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, located within the area of special flood hazard.

ELEVATED BUILDING. A non-basement building (i) constructed, in an area designated as Zone A in reference standard RS 4-4, to have the top of the elevated floor, or in an area designated as Zone V in reference standard RS 4-4, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of water, and (ii) adequately anchored so that the structural integrity of such building is not impaired during a flood of up to the magnitude of the base flood. In an area designated as Zone A in reference standard RS 4-4, such term also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to permit the unimpeded movement of flood waters. In an area designated as Zone V in reference standard RS 4-4, such term also includes a building otherwise meeting the definition of "elevated building" in which the lower area is enclosed by means of breakaway walls meeting the standards of subdivision (h) of section 27-317 of this code.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas resulting from:

(1) the overflow of inland or tidal waters; or

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map issued by the Federal Emergency Management Agency on which the regulatory floodway along water courses is delineated.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map issued by the Federal Emergency Management Agency on which areas of special flood hazard are delineated.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazards. Such map includes the flood boundary and floodway map and the flood hazard boundary map, as defined in this section.

FLOOD PLAIN. Any land area susceptible to being inundated by water from any source (see "flood or flooding").

FLOODPROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures to reduce or eliminate flood damage to real estate, improved real property, water and sanitary utilities, or structural and their contents.

FLOODWAY OR REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR. The lowest level including cellar or basement of the lowest enclosed area. For the purpose of this article, an unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement, is not considered a structure's lowest floor, provided that such enclosure shall

not be built so as to render the structure in violation of the requirements of subdivision (g) of section 27-317 of this code.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to required utilities.

MIXED USE BUILDING. Any building occupied in part for residential use, with one or more nonresidential uses located on a story below the lowest story occupied entirely by such residential use.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). A vertical control used as a reference for establishing elevations within the flood plain, as provided in section 27-158 of this code.

NEW CONSTRUCTION. Buildings for which the "start of construction" commenced on or after November sixteenth, nineteen hundred eighty-three.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of a beach.

START OF CONSTRUCTION. The date on which the building permits was issued, provided, however, that the actual start of construction, repair, reconstruction, placement or substantial improvement is within one hundred eighty days of such date. "Actual start" means either the first placement of permanent construction of a building on a site, such as pile driving, the pouring of slabs or footings, or any work beyond the stage of excavation; or, for a building without a cellar, basement or poured footings, the first permanent framing or assembly of such building or any part thereof on its piling or foundations. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a cellar, basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main building.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, alteration, or improvement of a building, the cost of which equals or exceeds fifty percent of its market value either:

(1) before the alteration, improvement or repair is started, or

(2) if the building has been damaged and is being restored before such damaged occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural parts of the building commences, whether or not that alteration affects the external dimensions of the building. The term "substantial improvement" does not, however, include either:

(1) any project for improvement of a building to comply with state or local health, sanitary or safety code specifications which are solely necessary to assure safe condtions, or

(2) any alteration of a building designated as worthy of preservation because of historic or architectural importance, or a building within an area so designated by the landmarks preservation commission, or listed on the national register of historic places or state inventory of historic places.

ZONE A. A symbol used on the flood insurance rate map to designate an area of special flood hazard without velocity (wave action). When not shown on the flood insurance rate map, the water surface elevation may be determined from available data by the registered architect or licensed professional engineer of record.

ZONE V. A symbol used on the flood insurance rate map to designate an area of special flood hazard with velocity (wave action). When not shown on the flood insurance rate map, the water surface elevation may be determined from available data by the registered architect or licensed professional engineer of record.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 33/1988 § 7

DERIVATION

Formerly § C26-409.3 added LL 58/1983 § 2

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NYC Administrative Code 27-318

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 1 GENERAL

§ 27-318 Scope.

The provisions of this subchapter shall govern the use and assembly of all materials of construction with respect to fire resistance, flame spread resistance, and smoke and toxic fume limitation. The provisions shall also control the location and function of integral structural and fire protective elements of buildings, and provide for the installation of safeguards against the spread of fire within buildings and between buildings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-500.1 added LL 76/1968 § 1

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NYC Administrative Code 27-319

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 1 GENERAL

§ 27-319 Standards.

The provisions of the reference standard RS-5 shall be a part of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-500.2 added LL 76/1968 § 1

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NYC Administrative Code 27-320

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 1 GENERAL

§ 27-320 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-500.3 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-321

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 1 GENERAL

§ 27-321 Use of combustibles.

The use of combustible component materials in units or assemblies shall be limited to construction group II, except as hereinafter expressly permitted in construction group I. Combustible aggregates may be integrated with other materials to form a noncombustible material provided that the entire mixture, in the form in which it is to be used in construction, meets the requirement of this code for noncombustibility.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-500.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-322

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 2 FIRE PROTECTION TEST PROCEDURES

§ 27-322 Tests.

Samples of all materials or assemblies of materials required by this code to have a fire-resistance rating, fire-protection rating, or flame spread rating, or required to be noncombustible, fire-retardant treated, or slow burning, shall be tested under the applicable test procedures specified herein, in accordance with the acceptance requirements of section 27-131 of article seven of subchapter one of this chapter. The fire-resistance rating of materials and assemblies listed in reference standard RS 5-1 may be used to determine conformance with the fire resistance requirements of this code. In addition to the performance results, test reports shall give all technical data pertaining to the nature of the constituent materials, such as the physical properties, chemical composition and properties, coefficient of expansion, thicknesses of materials, etc. Except as listed in reference standard RS 5-1, any assembly using a component having a structural base of noncombustible material covered with an integrally manufactured combustible surfacing material, shall be approved for fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-501.1 added LL 76/1968 § 1

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NYC Administrative Code 27-323

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SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-323 Requirements for structural members and assemblies.

13 The fire-resistance rating of construction assemblies and the protection of structural members shall comply with the requirements of table 3-4, based on the test procedures of reference standard RS 5-2, and their materials or combinations of materials shall be in accordance with the specifications of materials used in the test.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.1 added LL 76/1968 § 1

FOOTNOTES

13

[Footnote 13]: *Generally covered by Article 11 §§ C26-571.0-C26-630.0 from original code, amended LL 74/1962 §§ 12, 14, LL 50/1948, LL 103/1949, LL 120/1954, LL 5/1951, LL 84/1941, LL 77/1941, LL 1/1951, LL 109/1953, LL 97/1940, LL 74/1962 § 13, LL 119/1940, LL 50/1942 § 88, LL 49/1955, LL 14/1958.

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NYC Administrative Code 27-324

Administrative Code of the City of New York

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-324 Protection of structural members.

Columns, girders, trusses, beams, lintels, etc. that are required to be fire protected, and that support only one floor or a roof, and/or a non-bearing wall not more than one story high, shall be individually encased on all sides with materials having the required fire-resistance rating; or shall be protected by a ceiling as specified in section 27-327 of this article having the required fire-resistance rating; or shall be protected by a combination of both a ceiling and individual encasement which, together, provide the required fire-resistance rating. Columns, girders, trusses, beams, lintels, etc. that are required to be fire protected, and that support more than one floor or support a bearing wall or wall more than one story high, shall be individually encased on all sides for their entire length or height with materials having the required fire-resistance rating. Trusses that support only two stories or one story and a roof may be fire protected by an envelope that encompasses the entire truss with materials of the required fire-resistance rating.

(a) Embedments and enclosures. Pipes, wires, conduits, ducts, or other service facilities shall not be embedded in the required fire protection of a structural member that is required to be individually encased; except that pipes, wires, and conduits may be installed in the space between the required fire protection and the structural member protected, provided that where such facilities pierce the required fire protection, the area of the penetrations does not exceed two percent of the area of the fire protection on any one face, the penetrations are closed off with close-fitting

metal escutcheons or plates and the concealed space shall be firestopped at each story in accordance with the provisions of section 27-345 of article five of this subchapter.

(b) Impact protection. Where the fire protective covering of a structural member is subject to impact damage from moving vehicles, the handling of merchandise, or other activity, the fire protective covering shall be protected by corner guards or by a substantial jacket of metal or other noncombustible material, to a height adequate to provide full protection. Where applicable, such protection shall be designed in accordance with the requirements of section 27-558 of article three of subchapter nine of this chapter.

(c) Structural members in cavity walls. Where structural members occur within exterior cavity walls, portions of such structural members facing the exterior need not be individually fire protected if the outer width of the cavity wall provides the required fire-resistance rating and is located not more than two and one-half inches from such structural members, and if all surfaces of the structural members are fire protected from the interior of the building by materials having the required fire-resistance rating.

(d) Prestressing steel. Minimum covering of prestressing steel shall comply with the requirements of reference standard RS 5-15.

(e) Exterior Exposed Structural Members. Structural members exposed to the outdoors on buildings that do not exceed two stories or thirty feet in height, which are required by table 3-4 to have a fire-resistance rating not exceeding one hour, need not be protected on any face of the member that has an exterior separation of thirty feet or more, provided the outdoor area within the thirty feet separation distance is not used for storage of materials, or for motor vehicle parking.

(f) Inspection of fire protection. The installation of all required sprayed-on fire protection of structural members except those encased in concrete shall be subject to the controlled inspection requirements of section 27-132 of article seven of subchapter one of this code.

(g) Inspection of existing sprayed-on fire protection during alterations in office spaces and in occupancy group E spaces. In office spaces and spaces classified in occupancy group E, where an alteration exposes any required sprayed-on fire protection of structural members, or where, pursuant to an alteration persons are required to enter or access areas in which such sprayed-on fire protection is capable of being observed, the existing required spray-on fire protection shall be subject to the controlled inspection requirements of section 27-132 of this code. Such controlled inspection shall require a determination (i) that the existing sprayed-on fire protection as originally applied or installed complies with the applicable requirements of this code, including those for installation methods, materials, thickness and coverage; and (ii) that, since its original application, the integrity of the existing sprayed-on fire protection has not been compromised, damaged or displaced by the current alteration or by any prior alteration or other event.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Open par amended L.L. 34/1988 § 3

Subd. (g) added L.L. 26/2004 § 7, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

DERIVATION

Formerly § C26-502.2 added LL 76/1968 § 1

Sub f added LL 55/1976 § 1

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NYC Administrative Code 27-325

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-325 Elevators.

Structural members or car frames for elevators located within shaft enclosures need not be fire protected.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.3 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-326

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-326 Lintels.

Lintels over openings wider than four feet in masonry walls, other than in walls of masonry veneer on wood frame structures, shall be fire protected as required by section 27-324 of this article for structural members, when the full load over the opening is not relieved by a masonry arch of required strength. The members of an assembled metal lintel that support only outer face masonry that is securely bonded or anchored to backing need not be fire protected, provided that the inner members of the assembly support the full load imposed upon the lintel and are fire protected as required for structural members supporting masonry.

(a) Stone Lintels. The use of stone lintels on spans exceeding four feet shall not be permitted unless supplemented by fire protected structural members or masonry arches of the required strength to support the superimposed loads.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.4 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-327

Administrative Code of the City of New York

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-327 Ceilings.

(a) Ceilings that contribute to the required fire-resistance rating of a floor or roof assembly shall be continuous between exterior walls, vertical fire divisions, fire separations, corridor partitions or any other partitions having at least the same fire-resistance rating as the ceiling. All such fire-rated partitions shall be constructed as set forth in section 27-340 or subdivision (a) of section 27-341, as appropriate. The concealed space above such ceiling shall be firestopped into areas not exceeding three thousand square feet with materials listed in section 27-345 of this subchapter for the full height of the concealed space. Access to each such concealed space may be through one or more openings, not exceeding nine square feet and protected by self-closing opening protectives having the fire-protection rating required by table 5-3.

(1) Firestopping shall not be required where the structural members within the concealed space are individually protected with materials having the required fire-resistance rating, or where the ceiling is not an essential part of the fire-resistive assembly; nor shall firestopping be required where a concealed space is sprinklered in accordance with the construction requirements of subchapter seventeen of this chapter.

(b) Electrical and other openings in ceilings. Ceilings required to have a fire-resistance rating may be pierced to

accommodate noncombustible electric outlet boxes or recessed lighting fixtures if the aggregate area of such openings does not exceed sixteen square inches in each ninety square feet of ceiling area and the electrical outlet boxes or recessed lighting fixtures are constructed of steel at least .022 inches thick and sealed tightly at the ceiling. Noncombustible pipes, ducts, and additional or larger electrical or other service facilities may pierce ceilings that are required to have a fire-resistance rating only when the type of ceiling to be used has been tested with such types of facilities installed in place and the proportionate area of openings for such facilities to be installed in the ceiling does not exceed the proportionate area of such openings in the assembly tested, and provided no opening is larger than that in the assembly tested. Protection for such openings shall be the same as provided in the test. Duct openings installed in accordance with the foregoing shall be protected by fire dampers complying with the requirements of subchapter thirteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.5 added LL 76/1968 § 1

Amended LL 39/1972 § 14

Amended LL 16/1984 § 24

Administrative Code of the City of New York

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NYC Administrative Code 27-328

Administrative Code of the City of New York

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-328 Fire retardant treated wood.

(a) Material. Fire-retardant treated wood shall be pressure treated with fire retardant chemicals in accordance with reference standards RS 5-3 and RS 5-4. Where used as a structural element or as furring, the material shall have a flame spread rating not greater than twenty-five when tested in accordance with reference standard RS 5-5 when exposed for a period of at least thirty minutes, with no evidence of significant progressive combustion. Where used as interior finish or trim, the material shall have a flame spread rating that meets the requirements of section 27-348 of this subchapter for the location in which it is used. Subsequent to treatment, material two inches thick or less shall be air dried or kiln dried to an average moisture content of not more than nineteen percent.

(b) Label. All fire-retardant treated wood shall bear the identification of a testing laboratory or producer certifying to the performance thereof, in accordance with the acceptance requirements of section 27-131 of article seven of subchapter one of this chapter.

(c) Application. Fire-retardant treated wood may not be used where exposed to the weather or in interior spaces where the relative humidity is normally eighty percent or more. There shall be no fabrication of the material after treatment, such as cutting, shaping, or grooving for splines or ring connectors so as to expose untreated surfaces, except

that the material may be cut to length, shaped, or grooved if the exposed surfaces or edges are tightly butted against other material that is noncombustible or that is fire retardant treated, so that no untreated wood is left exposed to danger of ignition. Holes may be bored or cut for plumbing or heating pipes and for electric outlets only if the openings are covered with tightly-fitted noncombustible escutcheons or cover plates. The allowable working stresses of the material shall be ninety percent of the allowable stresses for untreated lumber of like classification.

(d) Where permitted in construction group I. Fire-retardant treated wood may be used in buildings of construction group I in the following cases:

(1) As permitted by table 3-4.

(2) For interior non-bearing partitions that are not required to have a fire-resistance rating.

(3) For interior furring and blocking of exterior walls, furring and blocking of interior walls and partitions, and framing of suspended ceilings provided the furring, blocking, and framing do not affect the integrity, or reduce the fire-resistance rating, of the construction element.

(4) For interior finish and trim.

(e) Area increase. Fire-retardant treated wood may be used in construction group II buildings in lieu of untreated wood for wall studs, bearing partition studs, columns, beams, girders, joists, rafters, trusses, sole and cap plates, subflooring and roof decks, and when so used, the area limitations of tables 4-1 and 4-2, for buildings of construction group II, may be increased by thirty-three and one-third percent.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.6 added LL 76/1968 § 1

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NYC Administrative Code 27-329

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-329 Opening protectives.

Opening protectives, including frames, self-closing devices, and hardware, shall be classified as to fire-protection rating in accordance with the test procedures of reference standards RS 5-6 and RS 5-7, and shall be installed, maintained, and operated in accordance with the provisions of reference standard RS 5-8. All opening protectives shall bear the identification of a testing laboratory or agency certifying to the performance rating thereof, in accordance with the acceptance requirements of section 27-131 of subchapter one of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.7 added LL 76/1968 § 1

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NYC Administrative Code 27-330

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ARTICLE 3 FIRE-RESISTANCE REQUIREMENTS*

§ 27-330 Slow burning plastic.

Slow burning plastic shall be of a material that burns no faster than two and one-half inches per minute in sheets 0.060 in. thick when tested in accordance with reference standard RS 5-12 or that is not consumed in less than two minutes when tested in accordance with reference standard RS 5-13. The thickness of the plastic material shall be determined by method "B" of reference standard RS 5-14.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-502.8 added LL 76/1968 § 1

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ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-331 Exterior walls.

Exterior walls shall comply with the fire-resistance rating requirements of table 3-4. Where provisions of this code require a space or facility to be enclosed, the construction requirements for the enclosure shall not apply to any exterior wall that forms part of the enclosure.

(a) Openings in exterior walls. In addition to the requirements of table 3-4 and subchapters six and eight of this chapter, exterior openings above the third floor level of a building or above a height of forty feet, except buildings in occupancy group J-3, open parking structures, and buildings of construction classes II-D and II-E, shall have opening protectives when (1) any part of the opening is less than thirty feet distant in a direct unobstructed line not in the same plane, from an opening in another building or from a wood frame building or (2) any part of the opening is above and less than thirty feet in a direct unobstructed line from, any roof construction that has a fire-resistance rating of less than one hour or that has unprotected openings therein within this distance, whether the roof construction is on the same building or on an adjacent building.

(b) Opening protective required ratings. In a building or space classified in occupancy group A, all opening protectives shall be three-quarter hour (class E) opening protectives meeting the requirements of reference standard RS

5-8. Such protectives shall be fixed self-closing or automatic. Alternatively, these openings may be protected with three-quarter hour (class F) protectives together with outside sprinklers installed in accordance with construction requirements of subchapter seventeen of this chapter. In such cases, there shall be an automatic dry pipe sprinkler head centered over each opening with the orifice directed against the opening. All opening protectives required by table 3-4 or by subdivision (a) above in buildings classified in other than occupancy group A shall be three-quarter hour (class F) openings.

(c) First story openings. Opening protectives required by table 3-4 may be omitted in show windows or other openings on the lowest story of a building facing on a street or public space.

(d) Nonautomatic protectives. Required opening protectives in exterior openings, if not self-closing or automatic, shall be kept closed by the occupants at all times when not required for light or ventilation under the provisions of subchapter twelve of this chapter.

(e) Construction of unprotected openings. Exterior windows and doors, including their frames and glazing, that are not required by this code to have a fire-protection rating, may be of combustible materials. Below a height of seventy-five feet, slow-burning plastic glazing may be used in windows. Glazing in balcony doors shall comply with the requirements of paragraph four of subdivision (g) of section 27-369 of article five of subchapter six of this chapter.

(f) Vertical separation of openings. In buildings classified in occupancy groups A, B, C, D and E, exceeding three stories or forty feet in height, openings located vertically above one another in exterior walls except in stairway enclosures, shall be separated by a spandrel wall at least three feet high between the top of one opening and the bottom of the opening immediately above; or each such opening above the lower one shall be protected against fire by an opening protective; or a fire canopy of noncombustible materials, extending out at least two feet horizontally from the wall and at least as long as the width of the lower opening, shall be constructed between the two openings. Spandrels and fire canopies shall be constructed to provide at least the fire-resistance rating required for the exterior wall, but in no event less than one hour.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.1 added LL 76/1968 § 1

Sub f amended LL 39/1972 § 15

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NYC Administrative Code 27-332

Administrative Code of the City of New York

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ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-332 Party walls.

The construction, design, and fire-resistance rating of party walls shall be the same as required by this code for vertical fire divisions. Concealed spaces in cornices and eaves shall be fire-stopped as a continuation of the party wall.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.2 added LL 76/1968 § 1

NYC Administrative Code 27-333

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-333 Parapets on exterior walls.

Parapets shall be provided on all exterior walls of buildings of construction class II-A, II-B, or II-C that have roof construction of combustible materials.

(a) Exceptions. A parapet need not be provided on the exterior wall of any building:

(1) That is less than twenty-two feet high; or

(2) Whose roof has a pitch of more than twenty degrees to the horizontal and whose overhang, fascia, cornice or gutter is of noncombustible construction, or if of combustible construction is separated from the roof and ceiling construction by construction having the fire-resistance rating required for the exterior wall of the building. Combustible members, excluding roof sheathing and its supporting members, if covered by a class A roof covering and complying with the restrictions as required by section 27-335 of this article, shall not extend through this construction, but shall have at least four inches of solid noncombustible material below, at the sides, and at the ends of such members; or

(3) That is provided with a fire canopy at, or not more than two feet below the roof level, continuous around that

portion of the wall that is without a parapet, constructed as required by subdivision (f) of section 27-331 of this article.

(b) Construction. Parapets required under this section shall be of materials and assembly having at least the fire-resistance rating of the wall below, and shall be at least two feet high.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.3 added LL 76/1968 § 1

Amended LL 39/1972 § 16

Administrative Code of the City of New York

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NYC Administrative Code 27-334

Administrative Code of the City of New York

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ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-334 Protective guards.

Buildings that are more than twenty-two feet in height and have roofs that are flatter than twenty degrees to the horizontal shall be provided with a parapet not less than three feet six inches high, or be provided with a three foot six inch high railing or fence, or a combination of a parapet and railing or fence which together are not less than three feet six inches high. Railings or fences may be located inward from the face of the exterior wall a distance not exceeding six feet, and shall be of a type that will prevent children from crawling through or over them. Where roofs are used for recreational purposes, wire fencing at least ten feet high shall be constructed. Where ball games are played on roofs the wire fencing shall be extended to provide an overhead closure. Except on buildings of class II-D or II-E construction, railings or fences shall be of noncombustible material. Railings shall be constructed as required in section 27-558 of article three of subchapter nine of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.4 added LL 76/1968 § 1

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ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-335 Exterior trim.

For the purposes of this section, exterior trim shall be defined as any material, other than door and window frames and sash, that is applied to exterior walls and which, if removed or destroyed, will not reduce the structural stability of the building enclosure, and which is installed so as not to reduce the required fire-resistance rating of the enclosure. Exterior trim shall include cornices, overhanging eaves, fascias, belt courses, pilasters, surrounds, gutters, leaders, half-timber work, shutters, trellises, etc.

(a) Combustible exterior trim:

(1) May not be used on buildings required to be of construction group I except that slow-burning plastics or approved equivalent materials may be used up to a height of twenty-five feet, provided that such trim covers not more than five percent of the surface area of the building enclosure (openings not included), or not more than one thousand square feet.

(2) May be used to a height of forty feet on buildings of construction classes II-A, II-B, and II-C provided that such trim covers not more than ten percent of the surface area of the building enclosure (openings not included),

projects not more than eight inches beyond the outside face of the building enclosure, and has an exterior separation of at least fifteen feet measured from the outermost surface of the trim.

EXCEPTION. Cornices, gutters, or overhanging roofs, when permitted, may project up to three feet beyond the outside face of the building enclosure if they are at least eight inches above the topmost opening, are firestopped as required by section 27-345 of article five of this suchapter and either:

a. have their combustible structural members protected by soffits and fascias of a material or assembly having at least a one hour fireresistance rating, or

b. have all their combustible members separated from the roof and ceiling construction by construction having the fire-resistance rating required for the exterior wall, with at least four inches of solid noncombustible material below, at the sides, and at the ends of such members;

(3) May be used to an unlimited extent in buildings of construction classes II-D and II-E on exterior walls that are not required to have a fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.5 added LL 76/1968 § 1

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NYC Administrative Code 27-335.1

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-335.1 Acoustical and thermal insulation; use in noncombustible construction.

(a) Notwithstanding any provision of this code to the contrary, acoustical or thermal insulation which is not noncombustible may be used where noncombustible construction is required if:

(1) it satisfactorily passes a test for determining noncombustibility of elementary materials, based on the test procedures of A.S.T.M. E136-65, and, upon exposure to fire will not produce products of decomposition or combustion that are more toxic in point of concentration that those given off by wood or paper when decomposing or burning under comparable conditions; or

(2) it has a flame-spread rating not greater than twenty-five, a smoke developed rating not greater than fifty, is without evidence of continued progressive combustion when tested in accordance with the test procedure of reference standard RS 5-5, and upon exposure to fire will not produce products of decomposition or combustion that are more toxic in point of concentration than those given off by wood or paper when decomposing or burning under comparable conditions.

(b) Notwithstanding any provision of subdivision a of this section or any other provision of this code to the

contrary, acoustical or thermal insulation, which is not noncombustible and which does not meet the requirements of subdivision a of this section, may be used where noncombustible construction is required subject to the approval of the commissioner, and provided it is installed in a composite method of construction, with a minimum of three inches of unpierced masonry or concrete on all sides.

(c) Notwithstanding any provision of subdivision a or b of this section or any other provision of this code to the contrary, thermal insulation, which is not noncombustible and which does not meet the requirements of subdivisions a and b of this section, may be installed in an exterior wall system in any noncombustible construction group, provided that:

(1) such insulation is of a thickness no greater than four inches; provided, additional thickness used exclusively for decorative or leveling purposes shall be permissible, where the area of such additional thickness does not exceed fifteen percent of the wall area on any single story;

(2) such insulation has a heat value not in excess of six thousand BTU per square foot;

(3) such insulation is installed in a composite method of construction and is separated from interior spaces by a thermal barrier having at least a one-hour fire resistance rating;

(4) such insulation has a flame spread rating not greater than twenty-five and a smoke developed rating not greater than four hundred fifty, and is covered with, and sealed or joined by, material having a flame spread rating not greater than twenty-five and a smoke developed rating not greater than fifty, when tested in accordance with the procedures of reference standard RS 5-5;

(5) such insulation is installed in a manner which meets the requirements for firestopping set forth in section 27-345;

(6) upon exposure to fire, the exterior wall system and each of its components will not produce products of decomposition or combustion that are more toxic in point of concentration than those given off by wood or paper when decomposing or burning under comparable conditions;

(7) the structure on which the exterior wall system is installed meets the requirements of section 27-331 pertaining to minimum horizontal and vertical separation distances; provided, however, that such insulation shall not be used on the exterior surface of a wall of a court or shaft if the horizontal or vertical separation distance between such wall and another wall of such court or shaft is less than twenty feet;

(8) the use of such insulation on soffits or other horizontal areas shall not extend more than three feet beyond the outside face of the building enclosure;

(9) the use of such insulation on buildings having party walls meets the requirements of section 27-332;

(10) such insulation meets the acceptance requirements of section 27-131;

(11) the results of a fire test of a representative portion of the exterior wall system meet the requirements of reference standard RS5-21;

(12) the edge or face of the assembly containing such insulation is labeled with the following information:

a. the name of a nationally recognized testing laboratory acceptable to the commissioner which has inspected such insulation;

b. the model of the exterior wall assembly for which such insulation is listed by a nationally recognized testing laboratory acceptable to the commissioner;

c. the identity of the manufacturer of such insulation;

d. the flame spread and smoke developed ratings; and

(13) the installation of such insulation shall be subject to controlled inspection to ensure that the installation is fully consistent with the terms of the listing by a nationally recognized testing laboratory acceptable to the commissioner, acceptance requirements of section 27-131 and the manufacturer's installation recommen- dations.

(d) The commissioner may, with regard to thermal insulation, the use of which is authorized by this subdivision, establish by regulation training criteria for persons installing such insulation, and prohibit the installation of such insulation by persons not adequately trained. Any person installing such insulation shall certify to the commissioner that the installation is fully consistent with the terms of the listing by a nationally recognized testing laboratory acceptable to the commissioner, acceptance requirements of section 27-131 and the manufacturer's installation recommendations.

(e) Definitions. As used in this section:

(1) "Composite method of construction" shall mean a method of construction in which diverse materials are combined to form an assembly, whether the assembly is prefabricated or fabricated at the site of installation.

(2) "Exterior wall system" shall include the exterior walls of a building and the appurtenances thereof.

HISTORICAL NOTE

Section added L.L. 13/1987 § 2

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-336

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-336 Porticos, porches, etc.

Porticos, entranceways, storm enclosures, bay windows, oriel windows, porches, or similar appendages may be constructed of combustible materials or assemblies on buildings of construction class II-E to an unlimited extent, and on buildings of construction classes II-A, II-B, II-C, and II-D under all of the following conditions:

(a) The building is classified in occupancy group J-2 or J-3.

(b) The building is not more than three stories or forty feet high.

(c) The appendage has an exterior separation on all exposed sides of at least fifteen feet, measured from the outermost surface of the appendage.

(d) The appendage is so constructed that its removal or destruction will not reduce the structural stability or fire resistive integrity of the building.

(e) The vertical surface area of the combustible portions of the appendage, including any exterior trim, is not more than ten percent of the total wall area (windows excluded) of the building.

(f) The appendage has a superficial roof area not exceeding one hundred fifty square feet and is included in the area limitations of table 4-1 and 4-2 for the entire building.

(g) The appendage is not higher than the sills of the second story windows.

(h) The roof of the appendage has a class A roof covering.

(i) The soffit or ceiling covering the combustible roof framing of the appendage has a one hour fire-resistance rating.

(j) The requirements of subdivisions (h) and (i) of this section shall not apply in the case of roofs or awnings over patios or entrance platforms where the area of vertical exposure of the patios or platforms to the outdoors is equal to at least that of the patio or platform area. Plastic shall be slow burning; canvas or other fabric shall be noncombustible or flameproofed in accordance with the provisions of title fifteen of the administrative code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-337

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-337 Roof coverings.

Roof coverings shall be classified as A, B, or C on the basis of their resistance to exterior fire exposure as listed in reference standard RS 5-9, or as determined by tests made in conformance with reference standard RS 5-10 for those not listed.

(a) Limitations of use. Every roof placed on a building shall be covered with class A or B roof covering, except class C roof coverings may be placed on buildings classified in occupancy group J when not more than three stories or forty feet in height, and on buildings permitted by this code to be of class II-D or II-E construction. The use of roofing having no rating is prohibited, except for replacement to the extent of twenty-five percent of the roof area in any twelve month period.

(b) Combustible roof decking. Unless attached directly to noncombustible framework, all roof coverings shall be applied to a closely fitted deck; except that wood shingles, to the extent permitted in subdivision (a) of this section, may be applied to wood slats.

(c) Roof insulation. Combustible roof insulation may be applied on top of roof decking or slab provided that it is

protected with the roof covering applied directly thereto.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-338

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 4 PREVENTION OF EXTERIOR FIRE SPREAD

§ 27-338 Roof structures.

(a) Construction of penthouses. Enclosure walls of penthouses shall comply with the requirements for exterior walls of table 3-4 for the construction class of the building on which they are erected. Roofs of penthouses shall comply with the requirements for roof construction of table 3-4 and section 27-337 of article five of subchapter six of this chapter.

(b) Construction of bulkheads. Bulkheads shall be constructed of noncombustible materials having a one hour fire-resistance rating, except that in buildings of construction class II-E, they may be constructed of combustible materials having a one hour fire-resistance rating.

(c) Scuttles. Scuttles shall be constructed of noncombustible materials, or of combustible materials covered on the top, sides, and edges with noncombustible materials.

(d) Skylights. For the purposes of this section, the term "skylight" shall be construed to include the sash, frames, and glazing of roof monitors and sawtooth roofs.

(1) SASH AND FRAMES. Skylights that are inclined at less than sixty degrees to the horizontal on all buildings

of other than construction classes II-D and II-E, shall have sash and frames constructed of noncombustible materials, and their glazing shall be as prescribed in paragraph two of this subdivision. Skylights that are inclined at greater than sixty degrees to the horizontal shall have sash and frames constructed as required for windows, and their glazing shall be as required for windows. Glass, glass blocks, or plastic used in skylights shall be designed and constructed to withstand the same live loads as required for roofs plus any concentrated live loads required herein.

(2) GLAZING. a. Skylights over stairways and shafts. Skylights placed over stairways and shafts shall be glazed with plain glass not more than one-eighth inch thick or unreinforced plastic not more than three-sixteenths of an inch thick.

b. Skylights over other spaces. Skylights in all locations other than over stairways and shafts shall be glazed with one-quarter inch wired glass, plain glass, glass block, or plastic of material and installation complying with subparagraph c of this paragraph.

c. Plastic. Plastic used for the glazing of skylights other than skylights over stairways and shafts shall be slow burning plastic. The aggregate area of skylight openings, other than over stairways and shafts, shall not exceed thirty-nine per cent of the floor area of any room or space sheltered by the roof in which they are located. The edges of plastic, if exposed, shall be protected by metal or other noncombustible material. Skylights in which plastic is used, if on roofs having a pitch of twenty degrees to the horizontal or less, shall be constructed in accordance with the following:

1. The area within the curbs of each skylight shall not exceed five square feet, except that this area may be of any size, limited only by other provisions of this section,if the opening is protected on all sides by a noncombustible railing thirty-six inches in height complying with the provisions of section 27-558 of article three of subchapter nine of this chapter for railings; or the skylight is subdivided into areas of five square feet or less by noncombustible muntins or bars capable of supporting a live load of three hundred pounds at any point; or a noncombustible screen or grid capable of supporting a load of three hundred pounds over any one foot by two foot area as provided above, integral with, or not more than three feet below the skylight, with the wire or bars spaced into areas of five square feet or less (if above the roof, the wires shall be of corrosion resistive metal).

2. There shall be a minimum clear distance of three feet between skylights.

(3) Separation of skylights from structures. There shall be at least ten feet between a plain glass or plastic skylight and any door in a stair bulkhead located above the roof in which the skylight is located, and at least ten feet between such a skylight and any opening in any roof structure or other wall above the roof not equipped with an opening protective. On buildings up to one hundred feet in height there shall be at least ten feet from such a skylight to the outside face of an exterior wall facing on a frontage space.

(4) SCREENS. Plain glass skylights shall be protected on their underside by noncombustible screens having a mesh not smaller than three-quarters of an inch by three-quarters of an inch nor larger than one inch by one inch of at least No. 12 B. & S. gauge wires. The screen shall be installed tight against the roof opening or shall project on all sides for a distance of not less than the distance of the screen below the glass, and shall be of such material and construction so as to support a load of three hundred pounds over any one foot by two foot area. The provisions for wire glass or screen protection shall not apply to glass block skylights.

(e) Greenhouses. Greenhouses on the roofs of buildings other than buildings of construction class II-D or II-E shall be constructed of noncombustible framework and shall be glazed with plain or wire glass, or slow burning plastic. The floors of greenhouses shall be constructed at least as required for roof construction in table 3-4 for the construction class of the building on which it is located.

(f) Construction of sloping roofs. Roofs having a slope of more than sixty degrees to the horizontal shall be constructed of material having the same fire-resistance rating as required for an exterior non-bearing wall of the

building of which it is a part. When the slope is sixty degrees or less to the horizontal, the sloping roof shall be constructed as required for the roof of the building. Where the back of a false mansard is exposed to the outdoors, the back shall be covered with noncombustible material or with roof coverings as required for the roof of the building.

(g) Dormers. Roofs of dormers shall be of the same type of construction and have roof covering of the same class as required for the roof of the building on which they are located. The walls of dormers shall be constructed of materials having the same fire resistance rating as required for non-bearing exterior walls of the building on which they are located; except that in buildings of construction classes II-A, II-B, II-C, and II-D, the walls may be constructed of combustible framing provided that the outside face of the framing is protected with noncombustible sheathing and the aggregate area of all such dormer walls, including openings therein, does not exceed twenty percent of the roof area.

(h) Water tanks.

(1) SUPPORTS. All water tanks placed in or on a building and having a capacity of more than five hundred gallons shall be supported on noncombustible walls or framing. When such tank is located within the building, above the lowest story, its framing shall be fire protected as required for columns supporting one floor or the tank shall be located within a room or space that is enclosed with construction having a fire-resistance rating equivalent to that otherwise required for the protection of the framing.

(i) Cooling towers. Cooling towers shall be constructed of noncombustible materials, except as follows:

(1) Outside the fire districts, when located on a building three stories or forty feet in height or less of construction group I, cooling towers may be constructed of combustible materials provided they are not more than fifteen feet high and do not exceed seven hundred fifty square feet in area.

(2) Outside the fire districts, when located on the ground and not exceeding three stories or forty feet in height or one thousand five hundred square feet in area, cooling towers may be constructed of combustible material provided they are protected by a noncombustible screen, fence, or wall at least twenty feet from the tower and at least seven feet high.

(3) Filling and drift eliminators may be of combustible materials if the towers are provided with automatic sprinkler protection complying with the construction provisions of subchapter seventeen.

(4) Filling and drift eliminators may be of combustible materials where the towers are not provided with automatic sprinkler protection, provided all of the following conditions are met:

a. The cooling tower is constructed of noncombustible material;

b. The cooling tower is located on a building in construction group I-A or I-B;

c. The cooling tower and filling and drift eliminators are located at least thirty feet away from any windows or fresh air intakes which are at an elevation above the roof on which the cooling tower is located, whether in the same building or in an adjoining building;

d. The cooling tower is located not less than fifteen feet from the nearest lot line; and

e. The cooling tower is located not less than ten feet from any chimney, except that the distance shall be not less than twenty feet from a chimney venting products of combustion other than from gas or oil fired appliances, whether on the same building or an adjoining building.

(5) In no event shall cooling towers or filling and drift eliminators be constructed of materials that contain asbestos.

(j) Miscellaneous roof structures. The following roof structures may be constructed of combustible material if

less than twelve feet high above the roof: antenna supports; flagpoles; clothes drying frames; duckboarding or platforms that do not cover more than twenty per cent of the roof area at that level.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.8 added LL 76/1968 § 1

Generally covered by Sub-Article 12 §§ C26-670.0-C26-682.0 from original code, amended LL 10/1948, LL 50/1942 § 100

Sub d par 2 subpars a, b, c amended LL 39/1972 § 17

Sub d par 3 amended LL 39/1972 § 18

Sub i amended LL 45/1984 § 3

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-339 Fire segregation of occupancies.

(a) Segregation by fire divisions. When different occupancies are to be segregated by fire divisions under the provisions of section 27-240 of subchapter three of this chapter, the occupancies shall be separated from each other, vertically and horizontally, by fire divisions having at least the fire-resistance ratings listed in table 5-2 for the occupancy groups involved. Every building section shall be constructed of elements having at least the fire-resistance rating of a construction class required for the area and height of the building section as listed in tables 4-1 and 4-2.

[Table 5]: Table 5-1 Fire Separations and Table 5-2 Fire Divisions

Occupancy	A	B	B	C	D	D	E	F	F	F	F	F	G	H	H	J	J	J
		o 1	o 2		o 1	o 2		o 1a	o 1b	o 2	o 3	o 4		o 1	o 2	o 1	o 2	o 3

A	4	4	4	4	4	4	4c	4	4	4	4	4	4	4	4	4	4	4
Bo1	4	3	NR	1bc	NR	NR	1ac	1c	1c	-	1c	1c	1c	11/2c	11/2c	1c	1c	1c
Bo2	4	3	2	NR	NR	NR	NR	NR	NR	-	NR	NR	NR	NR	NR	NR	NR	NR
C	4	3	2	2	1	NR	NR	NR	NR	-	NR	NR	NR	1	1	1	1	1
Do1	4	3	3	3	3	NR	1a	1	1	-	1	1	1	11/2	11/2	1	1	1
Do2	4	3	2	2	3	2	NR	NR	NR	-	NR	NR	NR	NR	NR	NR	NR	NR
E	4	3	2	2	3	2	2	NR	NR	-	NR	NR	NR	1a	1a	1a	1a	1a
Fo1a	4	3	2	2	3	2	2	2	NR	-	NR	NR	NR	1	1	1	1	1
Fo1b	4	3	2	2	3	2	2	2	2	-	NR	NR	NR	1	1	1	1	1

Fo2	4	3	2	2	3	2	2	2	2	2	-	-	-	-	-	-	-	-
Fo3	4	3	2	2	3	2	2	2	2	2	2	NR	NR	1	1	1	1	1
Fo4	4	3	2	2	3	2	2	2	2	2	2	2	NR	11/2	11/2	1	1	1
G	4	3	2	2	3	2	2	2	2	2	2	2	2	NR	NR	NR	NR	NR

& # 1 6 0 ; & # 160;

Ho1	4	3	2	2	3	2	2	2	2	2	2	2	2	2	NR	1	1	1

& # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 1 6 0 ; & # 160;

Ho2	4	3	2	2	3	2	2	2	2	2	2	2	2	2	2	1	1	1

& # 1 6 0 ; & # 160;

Jo1	4	3	2	2	3	2	2	2	2	2	2	2	2	2	2	2	NR	NR

& # 1 6 0 ; & # 160;

Jo	4	3	2	2	3	2	2	2	2	2	2	2	2	2	2	2	2	N

2 R

& # 1 6 0 ; & # 1 6 0 ;

J o 4 3 2 2 3 2 2 2 2 2 2 2 2 2 2 2 2 2
3

Key: Fire-resistance ratings are given in hours. For Table 5-1 read above heavy line. For Table 5-2 read below heavy line.

NR means No Requirement.

(b) Segregation by fire separations. When different spaces are to be segregated by fire separations under the provisions of section 27-240 of subchapter three of this chapter, the occupancies shall be separated from each other, vertically and horizontally, by fire separations having at least the fire-resistance ratings listed in table 5-1. In buildings of construction group I, fire separations shall be constructed of noncombustible materials.

Notes for Tables 5-1 and 5-2:

[a] An office, or group of offices, whose use is accessory to an occupancy, and totals four hundred square feet or less in area shall not be required to have a fire separation. Such office, or group of offices, totalling more than four hundred square feet in area shall not be required to have a fire separation if such offices exit directly, without having to pass through the area of the related occupancy.

[b] Counters and backbars for the sale of publications, tobacco products, liquors, or candies, or for making of reservations for travel, car rental, or theatre, or otherwise involving similar business and mercantile activities that are accessory to an occupancy and are limited in area to one hundred square feet, within the area of the occupancy, need not comply with the requirements of this table.

[c] The provisions of this table shall not apply to closets seventy-five square feet or less in area.

[d] Nonresidential kitchens need not be separated by fire separations from adjoining dining spaces, provided:

(1) The cooking equipment is vented directly to the outdoors, and

(2) 2 draft curtain of noncombustible material, at least twenty-four inches down from the ceiling, is provided to separate the cooking facilities from dining spaces, and

(3) Sprinkler heads constructed in accordance with the provisions of subchapter seventeen of this chapter, are provided on the cooking facilities side of the curtain, or any opening between the kitchen and dining space, located within twenty-four inches of the curtain or opening, and spaced not more than forty-eight inches on centers if the opening is more than sixty inches wide. When fire separations are provided double-action doors may be permitted.

[e] Kitchens having a floor area of fifty-nine square feet or less located within dwelling units shall be separated from adjacent spaces by partitions having a fire-resistance rating of at least one hour except for the entrances thereto which need comply with section 27-342 of this article. If doors are provided they may be of wood.

[f] In buildings or spaces classified in occupancy group J-1 or J-2 all partitions in dwelling units located in cellars shall have a minimum fire-resistance rating of one hour.

(c) Compartmentation. Notwithstanding the provisions of table 4-1, in existing office buildings one hundred feet or more in height having air-conditioning and/or mechanical ventilation systems that serve more than the floor on which the equipment is located, unsprinklered floor areas, more than forty feet above curb level, shall be subdivided by fire separations into spaces or compartments of the size required by paragraphs one through five of this subdivision. Floor area shall be defined as the area within exterior walls and excluding any areas enclosing stairs, corridors, elevators and shafts: (1) Unless otherwise provided below, all unsprinklered floor areas shall be segregated by one-hour fire separations into spaces or compartments not to exceed seventy-five hundred square feet.

(2) Where the floor area exceeds ten thousand square feet, at least one of the subdividing fire separations shall be of two-hour fire-resistive construction, creating areas of refuge, complying with section 27-372 of article five of subchapter six of this code except that the requirement for an elevator in each area shall not apply.

(3) The floor area or any subdivided area may be increased to not more than fifteen thousand square feet if complete area protection by approved devices for the detection of products of combustion other than heat is provided within such increased area and provided further than at least one of the subdividing fire separations shall be of two-hour fireresistive construction where the floor area exceeds fifteen thousand square feet, creating areas of refuge in the same manner and under the same conditions as provided in two of this subdivision. The activation of any such detectors shall have the same effect as provided in subdivision (f) of section 27-972 of article five of subchapter seventeen of this code.

(4) In existing buildings, existing fire separations of one-hour fire-resistive construction may be accepted in lieu of the fire separation of two hour fire-resistive construction providing all other requirements of paragraphs two and three of this subdivision are complied with.

(5) Regardless of the floor area, no subdivision of the floor area shall be required under this subdivision when complete sprinkler protection is provided in accordance with the construction provisions of subchapter seventeen of this chapter.

(6) Existing office buildings one hundred feet or more in height shall comply with the requirements of this subdivision as follows:

a. Whenever an alteration is performed involving partition changes, compliance with this subdivision shall be required in that portion of the building being altered.

b. At least one-third of the total floor area of the building not in compliance with the requirements of this subdivision on February seventh, nineteen hundred seventy-three, shall comply with such requirements on or before December thirteenth, nineteen hundred eighty-one. Complete plans showing such compliance for the phase of the work to be done shall be filed with, and a permit secured from, the commissioner on or before September thirteenth, nineteen hundred eighty.

c. At least two-thirds of the total floor area of the building not in compliance with the requirements of this subdivision on February seventh, nineteen hundred seventy-three, shall comply with such requirements on or before August seventh, nineteen hundred eighty-four.

d. Full compliance shall be provided on or before February seventh, nineteen hundred eighty-eight.

(7) In existing office buildings one hundred feet or more in height where compliance would cause practical difficulty or undue hardship, the commissioner may waive or modify the requirements of paragraphs one through five of this subdivision and accept alternatives fulfilling the intent of these requirements. Where compliance with the time requirements of paragraph six of this subdivision would cause undue hardship, the commissioner, with the approval of

the fire commissioner, may extend the time for compliance, in accordance with rules and regulations to be promulgated. Before such application for a time extension shall be considered all required applications and plans must be filed and approved, permits obtained and a good faith effort towards completion of the work shall have been made.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-503.9 added LL 76/1968 § 1

Repealed LL 5/1973 § 5

CASE NOTES FROM FORMER SECTION

¶ 1. Constitutionality of statute upheld, the test of unconstitutional taking being the effect of a law on a particular property rather than its effect on an industry.-McCallin v. Walsh, 64 A.D. 2d 46, 407 N.Y.S. 2d 852 [1978].

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-340 Fire divisions.

Fire divisions shall be constructed of noncombustible materials or assembly of noncombustible materials to provide the fire-resistance ratings required by table 5-2. Vertical fire divisions shall be continuous between foundation, roof, or horizontal fire divisions, and through any concealed space in floor or roof construction. Horizontal fire divisions shall be continuous between exterior walls and/or vertical fire divisions.

(a) When roof construction is combustible on both sides of a vertical fire division, the vertical fire division shall extend through the roof construction to a height of at least four inches above the high point at the roof framing. Decking shall tightly butt the fire division. Above the decking of roofs that are flatter than twenty degrees to the horizontal, blocking shall be constructed to form cants on both sides of the fire division with slopes not steeper than 1:4. Combustible decking shall not extend over the top of the fire division.

(b) Except as required in subdivision (c) of this section, when roof construction is noncombustible on one or both sides of a vertical fire division, the vertical fire division may terminate at the underside of the noncombustible roof construction provided the junction of the wall and roof construction is made smoke tight.

(c) When a vertical fire division is required by table 5-2 to have a fire-resistance rating of three or four hours, and the roof construction has a fire-resistance rating of less than two hours, the fire division shall extend above the roof construction to form a parapet at least three feet high.

(d) Fire divisions shall be so constructed that the removal or collapse of construction on one side will not endanger the support of construction on the other side.

(e) Fire divisions shall be made smoketight at their junction with exterior walls. In buildings of construction class II-D and II-E, exterior walls shall be constructed of noncombustible materials for a distance of at least eighteen inches on each side of the fire division, or the fire division shall project at least twelve inches through the exterior wall.

(f) Fire divisions may be offset if the construction between the offset divisions, including their supports, has at the same fire-resistance rating as the fire division, with all hollow spaces within the construction firestopped with noncombustible material.

(g) Where combustible members such as joists, beams, or girders bear on, or frame into, vertical fire divisions, such members shall not extend through the wall and shall have at least four inches of solid noncombustible material below, at the sides, and at the ends of each such member.

(h) Chases or recesses shall not be cut into fire divisions so as to reduce their thickness below that required for the fire-resistance rating.

(i) Vertical fire divisions that are hollow shall be firestopped with at least four inches of noncombustible material so as to prevent passage of flame, smoke, or hot gases through the hollow spaces to the story above or below, or to hollow spaces within connecting floor or roof construction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.2 added LL 76/1968 § 1

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NYC Administrative Code 27-341

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-341 Fire separations.

Fire separations shall be constructed of materials or assembly of materials having at least the fire-resistance ratings required by table 5-1.

(a) Different tenancies. Different tenant apartments, suites, stores, offices, or other spaces that are not separated from each other by fire divisions, shall be separated from each other by fire separations having at least the fire-resistance rating prescribed in table 5-1, but in no case less than one hour, and shall continue through any concealed spaces of the floor or roof construction above.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-342

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-342 Openings in fire divisions and separations.

Openings in fire divisions and fire separations that are required to have a fire-resistance rating, shall be protected by opening protectives having the fire-resistance ratings prescribed in table 5-3, shall not exceed the limits in size and area herein prescribed, and shall comply with the provisions of section 27-329 of article three of this subchapter. Door and other openings in enclosures of vertical exits, exit passageways, corridors, and places of assembly shall be protected by opening protectives as required by the provisions of subchapters six and eight of this chapter. When such enclosures also serve as fire divisions or fire separations, openings therein shall be protected as required by the provisions of this subchapter.

(a) Size of opening. In buildings that are not sprinklered no opening through a fire division or fire separation shall exceed one hundred twenty square feet in area, with no dimension greater than twelve feet, and the aggregate width of all openings at any level shall not exceed twenty-five percent of the length of the wall. Where the areas on both sides of a fire division or fire separation are sprinklered in accordance with the construction provisions of subchapter seventeen of this chapter, the size of the opening may be one hundred fifty square feet in area, with no dimension greater than fifteen feet. In buildings fully sprinklered in compliance with the provisions of subchapter seventeen of this chapter, the size and aggregate width of openings through fire divisions or fire separations shall be unlimited. When a

fire division or fire separation serves as a horizontal exit also, it shall have no opening other than door openings not exceeding fifty-six square feet in area, the aggregate width of all openings at any level shall not exceed twenty-five percent of the length of the wall, and shall comply with the provisions of section 27-373 of article five of subchapter six of this chapter.

(b) Conveyor openings. Where fire doors or shutters are impractical for the protection of conveyor openings in fire divisions or fire separations, a system of water spray nozzles may be used. At least four nozzles shall be provided on each side of the opening so as to give complete coverage of the opening. Nozzles shall be controlled by an automatic valve actuated by a heat detector. Nozzles shall be located at an angle not more than thirty degrees between the centerline of nozzle discharge and a line perpendicular to the plane of the opening. The water discharge rate shall be at least three gallons per square foot per minute. When conveyor openings through floors are protected by this method, the openings shall also be provided with a noncombustible enclosure constructed around the conveyor from the floor up to or slightly beyond the spray nozzles, and draft curtains shall be provided extending twenty-four inches below and around the floor opening.

TABLE 5-3

Opening Protectives for Fire Divisions and Fire Separations

Fire-Resistance Rating of Fire Division or Fire Separation in which Opening Occurs (hr.)	Fire Protection Rating of Opening Protective
3 or 4	/-123 hr. (Class A)*
2 or 1-1/2	1-1/2 hr. (Class B)*
1	1-93/4 hr. (Class C)*

* Note-Shall consist of two one and one-half hour (class B) opening protectives, with one protective installed on each face of a fire division or fire separation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.4 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-343

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-343 Ducts, pipes and conduits through rated construction.

(a) Installation of ducts which pass through construction required to have a fire-resistance rating shall comply with the requirements of subchapter thirteen, provided that, notwithstanding the provisions of subchapter thirteen or reference standard RS 13-1, noncombustible ducts which pass through construction required to have a fire-resistance rating of one hour must be provided with fire dampers unless:

(1) The building is classified in occupancy group C, E, or H-2; and

(2) Complete sprinkler protection is provided for the floor in accordance with subchapter seventeen; or

(3) The openings for the ventilation ducts do not exceed three square feet in area; or

(4) The duct is protected on both sides of the partition for a distance equal to the maximum duct dimension by a sleeve affording one hour fire separation for such horizontal distance.

(b) Noncombustible pipes and conduits. Noncombustible pipes and conduits may pass through construction required to have a fire-resistance rating provided that the space between the pipe or conduit and its sleeve or opening

does not exceed one-half inch and is completely packed with mineral wool or equivalent noncombustible material and is closed off by close-fitting metal escutcheons on both sides of the construction; and provided further that the aggregate net area of such openings does not exceed twenty-five square inches in any one hundred square feet of wall or floor area (excluding the areas of openings for sleeves which are firestopped in conformance with this section and section 27-345).

(c) Openings for passage of pipe and ducts whose aggregate net area exceeds twenty-five square inches in any one hundred square feet of wall or floor area (excluding opening for sleeves which are firestopped in conformance with this section and section 27-345) may pierce constructions required to have a fire-resistance rating only when the type of construction to be used has been tested with such types of facilities installed in place and the proportionate area of openings of such facilities to be installed in the construction does not exceed the proportionate area of openings in the assembly tested, and provided no opening is larger than that in the assembly tested. Protection of such openings shall be the same as provided in the test. All openings through hollow fire rated construction shall be sleeved with sheet metal least No. 14 U.S. std. gage thick.

(d) The installation and proper functioning of required fire dampers shall be subject to the controlled inspection requirements of section 27-132 of this code, except that it shall not be required that the architect or engineer be in the employ of the owner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (d) added L.L. 26/2004 § 8, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

DERIVATION

Formerly § C26-504.5 added LL 76/1968 § 1

Amended LL 16/1984 § 26

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NYC Administrative Code 27-344

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-344 Shafts.

The requirements of this section shall apply to all shafts, except that floor openings accommodating a slide pole in a fire house and openings other than for ventilation, chimneys or gas vents in buildings three stories or less in height classified in occupancy group J-3 shall be exempt from these requirements, and except as more restrictive requirements may be specified for chimneys and gas vents in subchapter fifteen of this chapter, stairway enclosures in subchapter six, duct enclosures in subchapter thirteen, elevator, escalator, and dumbwaiter enclosures in subchapter eighteen of this chapter, and except as permitted in reference standard RS 5-18.

(a) Construction. Shafts shall be enclosed with materials having at least fire-resistance rating required by table 3-4. A shaft that serves the topmost story of a building shall extend through the roof at least thirty-six inches above any combustible roof construction. Where the roof construction is of noncombustible materials, the shaft shall extend through any concealed space within the roof construction and may terminate at the underside of the roof deck. Pipes and ducts penetrating shaft construction shall comply with the requirements of section 27-343 of this article.

(b) Combustible Contents. Shafts shall be kept free of bookstacks or other combustible contents except for stair construction as permitted under subchapter six of this chapter, duct and pipe coverings as permitted under subchapters

thirteen and sixteen, and elevator car enclosures as permitted under subchapter eighteen of this chapter.

(c) Openings in shafts. All shaft openings below the top terminus shall be provided with opening protectives that comply with section 27-329 of this subchapter and table 5-3. In shafts that contain only one opening below the roof terminus, no opening protective need be provided. Openings in elevator and dumbwaiter shafts shall comply only with the requirements of subchapter eighteen of this chapter. Where a window is located in a shaft wall that is an exterior wall and is ten stories or less above grade or three stories or less above a roof, it shall be protected against entrance by a permanently secured grille consisting of 5/8 in. dia. bars, 10 in. o. c. vertically, or by a stationary metal sash window having 1/8 in. thick solid section steel muntins, 8 in. o. c. one way. This protection shall not be required in stair shafts where there is a stair landing or platform not more than three feet directly below the window sill.

(d) Smoke venting of closed shafts. All closed shafts having an area exceeding four square feet, other than elevator or dumbwaiter shafts, shall be provided with a smoke vent having an area of at least three and one-half percent of the maximum shaft area at any floor, but in no event less than one-half square foot. Elevator and dumbwaiter shaft vents shall comply with the requirements of subchapter eighteen of this chapter. Smoke vents may be windows, louvers, skylights, vent ducts, or similar devices. Vent ducts shall be enclosed by construction having the same fire resistance rating as required for the shaft enclosure. Such vent ducts shall extend vertically, diagonally, or horizontally as provided below.

(1) Through any roof of the building provided the vent opening is at least ten feet from any window, door, outside stairway, or interior lot line. This dimension may be reduced to five feet if the vent duct is extended up to at at least the level of the top of the window or door. A vent that is required to extend above a roof shall extend at least eight inches above a roof assembly constructed of noncombustible materials, and at least thirty-six inches above a roof assembly constructed of combustible materials that are within a horizontal distance of ten feet.

(2) Through an exterior wall of the building, provided there are no openings in the wall within a distance of thirty feet vertically above the vent opening, and within five feet either side of the vent opening. When a side of a shaft is an exterior wall or a wall of a roof bulkhead, the required vent may be a louver or window. Any window or louver located in a shaft wall above a roof constructed of combustible materials shall have its sill at least thirty-six inches above the roof.

(e) Terminus of shaft vents. Of the total required vent area for shafts, at least one-third shall be clear opening to the outdoors, either in the form of fixed louvers, ridge vents, or hooded or goosenecked openings. In lieu thereof, skylights or trap doors may be used if constructed and arranged to open automatically by fusible link or other mechanical device when subjected to a temperature of one hundred sixty degrees Fahrenheit or to a rapid rise in temperature at a rate of fifteen to twenty degrees Fahrenheit per minute. The remaining portion of the required vent area may be a window or skylight glazed with plain glass not more than one-eighth inch thick or slow burning plastic.

(f) Machine rooms. Any compartment containing machinery that communicates with a shaft enclosure shall comply with all requirements for shafts. The required louver or glazing shall not be located in any door leading into such compartment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.6 added LL 76/1968 § 1

Open par amended LL 54/1970 § 4

Open par amended LL 84/1979 § 1

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NYC Administrative Code 27-345

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-345 Firestopping.

Concealed spaces within partitions, walls, floors, roofs, stairs, furring, pipe spaces, column enclosures, etc. that would permit passage of flame, smoke, fumes, or hot gases from one floor to another floor or roof space, or from one concealed area to another, shall be firestopped to form an effective draft barrier, or shall be filled with noncombustible material in accordance with the requirements of this section. Firestopping shall not be required where a concealed space is sprinklered in accordance with the construction provisions of subchapter seventeen of this chapter, or is constructed as a shaft.

(a) Firestopping materials. In buildings of construction group I, firestopping or fill shall be of noncombustible material that can be shaped, fitted, and permanently secured in position. In buildings of construction group II, firestopping may be of combustible material consisting of wood not less than two inches nominal thickness with tight joints, two layers of one inch nominal thickness assembled so that there are no through joints or of one-half inch exterior type plywood with joints backed, except that noncombustible firestopping shall be used in concealed spaces of fire divisions and where in contact with fireplaces, flues, and chimneys. Noncombustible firestopping may be masonry set in mortar, concrete, three-quarter inch thick mortar or plaster on noncombustible lath, plasterboard at least three-eighths of an inch thick, fire-rated wallboard at least five-eighths of an inch thick, sheet metal at least No. 14 U.S.

std. gage thick, solid web metal structural members, asbestos-cement board at least one-quarter of an inch thick, or equivalent rigid noncombustible material. Mineral, slag, or rockwool may be used for firestopping when compacted to a density of at least three and one-half pounds per cubic foot into a confined space of least dimension not more than one-third its second dimension.

(1) The performance of through-penetration fire stops shall be measured and specified according to reference standard RS 5-19.

(2) The commissioner may accept reference standard RS 5-19 test data results from an independent laboratory acceptable to the commissioner pursuant to subdivision (c) of section 27-131, when such data is submitted by a registered architect or licensed professional engineer to justify the usage of fire stops or the details of their installation not specified herein.

(b) Hollow partitions and furred spaces. All hollow partitions and furred out spaces shall be firestopped at each floor level. Firestops shall be the full thickness of the hollow space or furred out space.

(c) Stairs. Concealed spaces within stair construction shall be firestopped between stringers at the top and bottom of each flight of stairs so as not to communicate with concealed spaces in the floor, roof or intermediate landing construction.

(d) Ceiling spaces. Floor or roof assemblies required to have a fireresistance rating shall have any concealed spaces therein firestopped in accordance with section 27-327 of this subchapter.

(e) Exterior cornices. Exterior cornices and eaves, constructed of combustible materials or with combustible framing, shall be firestopped at the ends of fire divisions and party walls, and at maximum intervals of twenty feet. If not continuous, they shall have closed ends and at least four inches separation between adjoining sections.

(f) Trim and finish. Where combustible trim and finish is permitted all hollow spaces shall be firestopped at ten foot intervals or shall be solidly filled with noncombustible materials.

(g) Duct and pipe spaces. Ducts and pipes enclosed in construction that does not meet the requirements of this code for shaft construction shall be firestopped at every floor level.

(h) Inspection of firestopping. The installation of all required firestopping shall be subject to the controlled inspection requirements of section 27-132 of article seven of subchapter one of this chapter, except that the architect or engineer need not be retained by the owner. Firestopping shall not be concealed from view until inspected.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.7 added LL 76/1968 § 1

Sub a amended LL 16/1984 § 27

Subs g, h relettered LL 16/1984 § 28

(formerly subs f, g)

Sub f added LL 16/1984, § 28

Sub h amended LL 16/1984 § 29

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-346

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-346 Partitions and furring.

In buildings of construction group I, partitions and furring shall be constructed of noncombustible materials, except that nonbearing partitions that are not required to have a fire-resistance rating, and furring may be constructed of fire retardant treated wood as provided in subdivision (d) of section 27-328 of article three of this subchapter, and except that such partitions and furring, may be constructed of combustible materials in spaces classified in occupancy group E, J-2, or J-3, provided the following conditions are met:

(a) the space containing the combustible partitions does not exceed five thousand square feet in area within a noncombustible enclosure having a fire-resistance rating of at least one hour.

(b) the space is in a single tenancy.

(c) glass or slow burning plastic is used for glazing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.8 added LL 76/1968 § 1

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NYC Administrative Code 27-347

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-347 Folding partitions.

Folding partitions shall not be used as partitions that are required by this code to have a fire-resistance rating.

(a) Construction group I. In buildings of construction group I, folding partitions may be used if they are constructed of noncombustible materials, or of fire retardant treated wood, or are constructed of noncombustible frame covered with fabric that has a class A interior finish rating. Where partitions of combustible materials are permitted by section 27-346 of this article, folding partitions may also be constructed of combustible materials. Where doors constructed of materials having a class C interior finish rating are permitted by section 27-348 of this article, folding doors may be constructed of combustible materials.

(b) Construction group II. In buildings of construction group II, folding partitions may be constructed of combustible materials, surfaced with interior finish materials meeting the requirements of section 27-348 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.9 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-348

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-348 Interior finish.

(a) Definition. For the purposes of this section, interior finish shall mean those materials that form the exposed interior surfaces of a building and that are part of or affixed to walls, fixed or folding partitions, ceilings, and other construction elements.

(b) Classification. Interior finish materials shall be classified in accordance with the surface flame-spread rating obtained as prescribed in the provisions of reference standard RS 5-5. Where an interior finish material is comprised of two or more materials laminated, glued, nailed, or otherwise secured together, the test rating for flame spread shall be based upon the composite of the materials in the form in which it will be used in construction. Interior finish materials shall be grouped in the following classes, in accordance with their surface flame spread characteristics:

Interior Finish Class	Flame-Spread Rating
A	0 to 25
B	26 to 75

C	76 to 225
D	Over 225

(c) Requirements. Interior finishes and exposed structural or construction materials shall have a flame-spread rating not greater than that designated by the class prescribed for the various occupancy groups in which they are used, as listed in table 5-4. Exceptions to these requirements are:

(1) Finish flooring and floor coverings, which are subject to the requrements of section 27-351.

(2) Wall coverings and coatings that are less than 0.036 in total thickness, when applied directly to a noncombustible, or fire-retardant treated wood, substrate.

(3) Exposed structural members and planking in buildings of class II-A construction, which may be left exposed in any room or space, except in exits.

(4) Twenty per cent (20%) of the aggregate wall and ceiling area of any room, space, or corridor required to have a class A or B rating may be finished with materials having a class C rating. This allowance shall include the area of doors, folding partitions, windows, glazing, skylights, luminous ceilings, trim, bases, chair rails, panels, moldings, etc. This exception shall not operate as a waiver of other requirements of this code relating to opening protectives.

(5) When a sprinkler system is provided in any room or space, and is installed in compliance with the construction provisions of subchapter seventeen of this chapter, interior finish materials may be one class higher in flame-spread rating than required by tables 5-4.

(d) Smoke density. No material shall be used for interior finish in the following locations if the material develops smoke in greater density than the rating shown, based upon a test conducted in accordance with the provisions of reference standard RS 5-5. Materials used for interior finish that cover not more than twenty percent of the aggregate wall and ceiling area of any room, space, or corridor shall be exempt from the above requirements.

[See tabular material in printed version]

(e) Toxicity. No material shall be used in any interior location that, upon exposure to fire will produce products of decomposition or combustion that are more toxic in point of concentration than those given off by wood or paper when decomposing or burning under comparable conditions.

(f) Attachment of interior finish.

(1) To be credited with the same rating, interior finish materials that were applied to a substrate when tested shall be applied at the building to an equivalent substrate.

(2) Interior finish materials shall be cemented or otherwise secured in place in the same manner and with materials equivalent to those used in flame-spread tests conducted in accordance with subdivision (b) of this section for the applicable classification.

(3) Where walls, ceilings, partitions, or other construction elements are required to have a fire-resistance rating or are required to be constructed of noncombustible materials, and the interior finish is secured to studs or furring, the surface of the interior finish facing the concealed space shall either have a class A rating, shall be applied to a substrate that has a class A rating, or shall have the concealed space completely filled with noncombustible material.

TABLE 5-4

Interior Finish Requirements Class

Occupancy Group Classification of the Space	Occupancy Group Designation	Exits and Shafts	Corridorsb	Rooms More Than 1500 Sq. Ft. in Areaa		Rooms Less Than 1500 Sq. Ft. in Areaa, d	
High Hazard		A		A	A	B	B
Storage		B-1		A	A	B	C
Storage		B-2		A	B	Bc	C
Mercantile		C		A	B	Bc	C
Industrial		D-1		A	A	B	C
Industrial		D-2		A	B	Bc	C
Business		E		A	B	C	C
Assembly		F-1a		A	B	B	Bd
Assembly		F-1b		A	B	Bc	Bc, d
Assembly		F-2		A	B	Bc	Bc, d
Assembly		F-3		A	B	Bc	Bc, d
Assembly		F-4		A	B	Bc	C
Educational		G		A	A	B	C
Institutional		H-1, H-2		A	A	B	Bd
Residential		J-1, J-2		A	A	B	Bf
Residential		J-3		B	De	De	De

Notes For Table 5-4:

[a]In determining the applicable requirements for rooms or enclosed spaces, the occupancy group classification of the room or enclosed space shall be the governing factor, regardless of the occupancy group classification of the building. For the purposes of this table, the area of a room shall be that floor area contained within enclosing construction in which interior doors or other interior openings represent not more than ten percent of the area of the enclosing construction. Interior doors or windows that are constructed of noncombustible materials and that are self-closing or automatic may be ignored in computing door or opening area. Rooms or spaces that have unprotected openings constituting more than ten percent of the area of enclosing construction shall not be considered as a room. Interior finish requirements for rooms are based upon rooms being enclosed in ceiling high partitions. Partitions, to be considered ceiling high, shall extend up to the floor or roof construction above or to a ceiling having at least a three-quarter hour fire-resistance rating. Partitions that do not comply with this requirement shall not be considered as enclosing the spaces, and the rooms or spaces on both sides thereof shall be considered as one.

[b]Rooms or spaces through which it is necessary for occupants of an adjacent room to pass in order to reach the only exit shall, for the purposes of this table, be considered as corridors. Where used in corridors, class B finish material shall not extend more than fifty feet between separations of class A finish material that are at least two feet wide.

[c] On the street floor of one-story buildings in construction group II, ceilings, beams, trusses, etc. that are twenty feet or more in height from the floor to their lowest part, may have a class C finish.

[d] Class C interior finish may be used in offices, or groups of offices, whose use is accessory to an occupancy,

provided such offices are separated from the occupancy, by construction having at least a two hour fire-resistance rating.

[e] Class C interior finish may be used in the residential rooms of one- and two-story motels when there is a direct exit from each room to the exterior.

[f] Interior finish when used in the following spaces shall be at least class B:

(1) Kitchens, cooking spaces, and pantries in buildings classified in occupancy groups other than J-2 and J-3.

(2) Repair and maintenance rooms.

(3) Boiler rooms and incinerator combustion rooms.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.10 added LL 76/1968 § 1

Sub c par 1 amended LL 16/1984 § 30

Administrative Code of the City of New York

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Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-349 Coatings.

Coatings applied in the field by brush or spray shall not be used as flame-spread retardants except on existing surfaces of buildings existing on December sixth, nineteen hundred sixty-eight, and then only with the express permission of, and in a manner directed by, the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.11 added LL 76/1968 § 1

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-350 Ceiling construction.

Ceilings that are to be suspended below floor or roof construction by means of a framing system shall consist of supporting hangers, carrying channels and a supporting grid complying with reference standard RS 5-16 or shall have supporting hangers and carrying channels and a supporting grid that can be demonstrated to the satisfaction of the commissioner to be of strength adequate to support the ceiling material. The hangers and supporting grid shall be of noncombustible materials. In buildings of construction group II, every other hanger supported from wood members shall be attached by a through bolt or clinched through nail. Where, in table 3-4, floor or roof construction is required to have a fire-resistance rating, a ceiling having no fire-resistance rating may be suspended below the fire-resistance construction.

(a) Luminous ceilings. For the purpose of this section, a luminous ceiling shall be defined as a ceiling consisting of translucent, louvered, egg-crated, mesh, or similar light-diffusing material suspended from the ceiling or structural framework. A suspended ceiling containing less than twenty square feet of translucent, louvered, egg-crated, mesh, or similar material in any one hundred square feet of ceiling area shall not be considered a luminous ceiling, and shall be constructed and installed in accordance with department of buildings requirements for lighting fixtures. Luminous ceilings shall, in addition to the requirements of this section, conform to all of the requirements of section 27-348 of this

article for interior finish.

(1) LUMINOUS CEILINGS OF NONCOMBUSTIBLE MATERIAL. Luminous ceilings constructed of glass and/or metal or other noncombustible materials may be used in any location.

a. Glass used in luminous ceilings, unless it is wire glass or heat-resistant glass as specified below, shall not weigh more than two psf, nor shall any pane be larger than eight square feet in area. If glass used in luminous ceilings is wire glass, or is heat resistant by reason of having a maximum coefficient of expansion of 36 x 10-7 in. per in. per degree C, the glass may be of any weight and any size, limited only by considerations of structural safety.

b. Luminous ceilings installed below sprinkler heads shall be constructed of a type of noncombustible louver, mesh, or other open material that will not impede the flow of water from the sprinkler heads over the intended area of coverage. The luminous ceiling shall be constructed so as to provide access to all heads and valves.

(2) LUMINOUS CEILINGS OF COMBUSTIBLE MATERIAL. Luminous ceilings constructed of combustible materials shall not be installed in:

a. Any exit or corridor.

b. Any room classified in occupancy group H, or any room leading therefrom as defined in note b of table 5-4.

c. Any room in which the net floor area per occupant is twenty square feet or less, or any room leading therefrom as defined in note b of table 5-4.

d. Luminous ceilings constructed elsewhere than in the spaces listed in subparagraphs a, b, and c above shall be exempt from the provisions of section 27-348 of this article, provided that:

1. The panels of such ceilings are of slow-burning plastic;

2. The panels are installed above or below sprinklers that are constructed in accordance with the provisions of subchapter seventeen of this chapter;

3. No individual plastic panel exceeds ten feet in maximum dimension. Where installed below sprinkler heads, the plastic shall be a material that will fall from its mounting at a temperature at least fifteen degrees lower than the temperature at which the sprinkler heads are designed to operate or are constructed of open material which will not impede the flow of water from the sprinkler heads. Luminous ceilings shall be installed so as to provide ready access to all heads and valves.

(b) Suspension of new ceilings below existing suspended ceilings. In construction group I a new ceiling may be suspended below not more than one existing suspended ceiling and shall be supported directly from the ceiling carrying channels adjacent to the hangers. In construction group II, an existing suspended ceiling shall be completely removed before a new ceiling may be suspended.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. a open par amended L.L. 59/1996 § 93, eff. Aug. 8, 1996

DERIVATION

Formerly § C26-504.12 added LL 76/1968 § 1

Open par amended LL 39/1972 § 21

Sub b added LL 39/1972 § 22

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NYC Administrative Code 27-351

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-351 Finish flooring and floor coverings.

Finish flooring and floor coverings shall comply with the following: (a) In buildings or spaces classified in occupancy group A and in all exits except those in buildings of construction group II-E, finish flooring shall be of noncombustible material and except as otherwise provided for stairs in subdivision (h) of section 27-375 of article five of subchapter six of this chapter.

(b) Flooring in buildings or spaces of construction group I. Except as provided in subdivision (a) of this section combustible finish flooring may be used in buildings or spaces of construction group I when cemented directly to the top surface of noncombustible floor construction, or attached to combustible or noncombustible sleepers. When attached to sleepers, the space between the noncombustible floor construction and the bottom of flooring shall be solidly filled with noncombustible material to within one-quarter inch of the flooring, or the space between the sleepers under the flooring shall be firestopped into areas of not more than twenty square feet, and provided further that no open spaces shall extend under or through fire divisions or through fire separations. Combustible insulating or sound absorbing boards not more than one-half inch thick and having a flame-spread rating not greater than class C may be used when attached directly to noncombustible floor construction and covered with finish flooring.

(c) Flooring in buildings or spaces of construction group II. Except as provided in subdivision (a) of this section, finish flooring in buildings or spaces of construction group II may be of combustible material.

(d) Floor coverings.

(1) Exits. Where exits are required under any provision of this code, carpets and carpet assemblies shall not be installed in such exits, except that wool carpeting may be installed in lobby areas, exit passageways and convenience stairs.

(2) Flammability requirements. The requirements of this subdivision shall apply to carpets and carpet assemblies only when used as a floor covering (for requirements pertaining to carpets and carpet assemblies used as interior finishes, see section 27-348 of this article). For purposes of this subdivision, carpeting assemblies shall include the carpet, its underlay, and adhesives which when tested as a composite shall be representative of the proposed installation.

a. Pill test. All carpets and underlayments shall pass a methanine pill test in accordance with the requirements of reference standard RS 5-20.

b. Critical radiant flux test. Carpets and carpet assemblies shall be tested by the method for critical radiant flux in accordance with the requirements of reference standard RS 5-20. The time frame for such test shall be at least a fifteen minute exposure.

1. Carpets and carpet assemblies representative of the actual installation on floors of corridors, shall have a minimum critical radiant flux of 0.5 watts per square centimeter (W/cm).

2. Carpets and carpet assemblies representative of the actual installation on floors of general areas shall have a minimum critical radiant flux of 0.4 W/cm.

c. Smoke developed ratings. Carpets and carpet assemblies representative of the actual installation on floors of corridors or general areas shall be tested for smoke developed ratings in accordance with the requirements of reference standard RS 5-20. The smoke developed ratings in either the flaming or no-flaming mode shall not exceed three hundred within the first four minutes of the test.

d. The manufacturer of the carpets and carpet assemblies shall submit a certificate from an independent laboratory acceptable to the commissioner pursuant to section 27-131, showing the complete test data results, prior to final acceptance. The certification shall state that the material is treated for fire resistance and shall indicate the service life of the treatment or that the material is inherently fire resistant by virtue of its construction, chemical properties and/or composition. Materials which are not inherently fire resistant may be used only when the certified fire resistant service life exceeds that of the planned service life of the carpets and carpet assemblies with consideration being given to cleaning, traffic, and other conditions of use which may affect the treatment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.13 added LL 76/1968 § 1

Section heading, open par amended LL 16/1984 § 31

(Finish flooring and floor coverings)

Sub d added LL 16/1984 § 32

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Title 27 Construction and Maintenance

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ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-352 Fireplaces.

[Repealed]

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section repealed L.L. 80/1989 § 1

DERIVATION

Formerly § C26-504.14 added LL 76/1968 § 1

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CHAPTER 1 BUILDING CODE

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ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-353 Smoke and heat venting.

(a) Where the floor area of a one-story building classified in occupancy group A, B-1, or D-1 is greater in depth than one hundred feet from a frontage space, that portion beyond one hundred feet shall be provided with roof vents and smoke curtains complying with the requirements of reference standard RS 5-11. Where the effective area of vents are glazed with plain glass or plastic not thicker than one-eighth inch, they need not be provided with automatic opening devices.

(b) Buildings classified in occupancy group E, one hundred feet or more in height, having air-conditioning and/or mechanical ventilation systems that serve more than the floor on which the equipment is located, shall be provided with at least one smoke shaft by means of which smoke and heat shall be mechanically vented to the outdoors as provided in reference standard RS 5-17.

Buildings that are sprinklered throughout shall be exempt from the smoke shaft requirements.

(c) Existing office buildings, one hundred feet or more in height, having air-conditioning and/or mechanical ventilation systems that serve more than the floor on which the equipment is located, shall be provided with at least one

smoke shaft by means of which smoke and heat shall be mechanically vented to the outdoors as provided in reference standard RS 5-17, or in lieu of such smoke shaft or shafts, all interior enclosed stairs other than a fire tower or access stairs may be provided with a system of pressurization for fire emergency use.

Such pressurization shall be provided by means of a system or systems as provided in reference standard RS 5-18. Such buildings shall comply with the smoke and heat venting requirements herein on or before September thirteenth, nineteeen hundred eighty-two. Complete plans showing such compliance shall be filed with, and a permit secured from, the commissioner on or before September thirteenth, nineteen hundred eighty.

Existing buildings that are sprinklered throughout shall be exempt from the smoke shaft and stair pressurization requirements.

An existing building which is to be sprinklered throughout shall be exempt from the smoke shaft and stair pressurization requirements under the following conditions:

(1) the installation proceeds in conformance with a schedule acceptable to the commissioner, setting forth the sequence and corresponding time for installation in the various locations. On or before September thirteenth, nineteen hundred eighty such a schedule, as well as complete plans of the installation, shall be filed with, and a permit secured from, the commissioner for the phase of the work to be done as required by paragraph two of this subdivision.

(2) at least one-third of the total floor area of the building, including but not limited to the entrance lobby, corridors and elevator landing areas, is sprinklered on or before December thirteenth, nineteen hundred eighty-one.

(3) at least two-thirds of the total floor area of the building is sprinklered on or before December thirteenth, nineteen hundred eighty-two.

(4) the building is sprinklered throughout on or before December thirteenth, nineteen hundred eighty-three.

Where compliance with the time requirements of this subdivision would cause undue hardship, the commissioner, with the approval of the fire commissioner, may extend the time for compliance, in accordance with rules and regulations to be promulgated. Before such application for a time extension shall be considered all required applications and plans must be filed and approved, permits obtained and a good faith effort towards completion of the work shall have been made.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.15 added LL 5/1973 § 7

Sub c amended LL 26/1975 § 1

Sub c amended LL 86/1979 § 2

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NYC Administrative Code 27-353.1

Administrative Code of the City of New York

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ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-353.1 Smoke protection for elevators and escalators.

(a) Elevators. In existing buildings classified in occupancy group J-1, at every floor above the main entrance floor, all passenger elevantors*14 shall open only into elevator vestibules, except for:

(1) Such existing buildings which contain spaces classified in occupancy group C or F and have an automatic sprinkler system protecting all spaces (except boiler rooms) not in occupancy group J-1 and all exits and corridors serving such spaces located on or below the lowest floor containing sleeping rooms as well as all storage closets no matter where located, except that storage closets less than seventy-five square feet may, in the alternative, be provided with smoke detectors which shall be of the central supervisory type connected to an approved central station; or

(2) Such existing buildings which contain no spaces in occupancy group C or F, and have either:

a. An automatic sprinkler system protecting all public areas and storage closets; or

b. An automatic sprinkler system protecting all sleeping rooms and storage closets.

c. Notwithstanding subparagraphs a and b of this paragraph, storage closets less than seventy-five square feet

may be provided with smoke detectors of the central supervisory type connected to an approved central station.

d. Notwithstanding any other provision of this code, the sprinklers serving the storage closets may be connected with the domestic water supply.

(b) Escalators. In buildings and existing buildings classified in occupancy group J-1, fire protection for escalators shall be provided by any one of the following methods:

(1) Enclosure in accordance with sections 27-375 and 27-378 if escalator is used as an exit; or

(2) Automatic rolling shutters in accordance with reference standard RS 18-1; or

(3) Kiosks in accordance with reference standard RS 18-1; or

(4) Where the building section is fully protected by a supervised automatic sprinkler system and the escalator sprinklers are spaced to protect exposed sides of the escalator opening, a noncombustible heat apron constructed to bank heat around the sprinkler heads adjacent to the opening where the bottom edge of the draft curtain is not less than twelve inches below the bottoms of sprinkler heads when heads are in operation, and in no event less than twenty-four inches below the ceiling; or

(5) Spray nozzles in accordance with reference standard RS 18-1.

(c) The requirements of this subdivision shall be complied with on or before April first, nineteen hundred eighty-seven.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-504.16 added LL 16/1984 § 33

FOOTNOTES

14

[Footnote 14]: * So in original. (Word misspelled.)

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NYC Administrative Code 27-353.2

Administrative Code of the City of New York

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ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-353.2 Smoke protection for elevators in E occupancies.

For an elevator in a high rise building where such elevator serves four or more stories that contain space classified in occupancy Group E (office space), inclusive of any lobby or entry level, such elevator shall meet the following requirements at every level served by such elevator (i) for such buildings erected pursuant to new building applications filed on or after the effective date of this section, or (ii) where two or more new elevator shafts are installed in such buildings in existence on the effective date of this section:

(a) Elevator vestibule required. At every floor above the main entrance floor where the fire command station is located, all elevators shall open into an enclosed elevator vestibule. The elevator vestibule shall be separated from the building occupancy by smoke barriers extending from floor slab to floor slab.

(b) Permitted penetrations. Penetrations in addition to those permitted in section 27-353.3 (smoke barrier) shall be provided with smoke dampers as defined in reference standard RS 13-1, except that a package pass through or communication opening not exceeding one square foot in area need not be provided with smoke dampers.

(c) Access to exits. Access to an exit on any floor through the enclosed elevator vestibule shall be permitted if

the occupied areas on that floor have access to at least one other required exit that does not require passing through the elevator vestibule.

(d) On floors with a floor area of less than twenty-five hundred square feet, the commissioner may accept an alternative design or construction method that accomplishes the purposes of this section, or, if the commissioner determines that compliance with this section is impracticable in whole or in part, the commissioner may authorize an exemption from the requirements of this section.

HISTORICAL NOTE

Section added L.L. 26/2004 § 9, eff. Oct. 22, 2004 except that prior to

such date the commissioner of buildings and the fire commissioner may

promulgate rules or take other administrative actions to faciliate the

implementation of such provisions.

NYC Administrative Code 27-353.3

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 5 FIRE PROTECTION CONSTRUCTION REQUIREMENTS

ARTICLE 5 PREVENTION OF INTERIOR FIRE SPREAD

§ 27-353.3 Smoke barrier.

A smoke barrier may or may not have a fire resistance rating. Smoke barriers may have openings that are protected by automatic closing devices, adequate to inhibit movement of smoke through the opening. The smoke barrier may be constructed of heat-strengthened or tempered glazing or the equivalent and protected by sprinkler heads constructed in accordance with subchapter seventeen of this chapter and installed a maximum of six feet (6'-0") on center on each side of the barrier. If the smoke barrier is constructed of glass, the portions of the smoke barrier located within two feet of the door opening and within five feet of the floor shall be constructed of tempered glass. Glass panels having an area in excess of nine square feet with the bottom edge less than eighteen inches above the floor shall likewise be constructed of tempered glass. Portions of glass smoke barriers shall be marked where required in accordance with the rules of the board of standards and appeals.

HISTORICAL NOTE

Section added L.L. 26/2004 § 9, eff. Oct. 22, 2004 except that prior to

such date the commissioner of buildings and the fire commissioner may

promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

NYC Administrative Code 27-354

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 1 GENERAL

§ 27-354 Scope.

The provisions of this subchapter shall control the design, construction, protection, location, arrangement and maintenance of required exit facilities to provide safe means of egress from all buildings hereafter erected, altered or changed in occupancy, except that exit requirements for special uses and occupancies, as provided in subchapters seven and eight of this chapter, shall take precedence over the provisions of this subchapter and except further that buildings in existence on December sixth, nineteen hundred sixty-eight shall comply with the applicable requirements of section 27-356 of this article, section 27-371 of article five of this subchapter and articles eight and nine of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-600.1 added LL 76/1968 § 1

Amended LL 5/1973 § 8

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NYC Administrative Code 27-355

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 1 GENERAL

§ 27-355 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-600.2 added LL 76/1968 § 1

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NYC Administrative Code 27-356

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 1 GENERAL

§ 27-356 Inadequate exits for existing structures.

Every structure existing on December sixth, nineteen hundred sixty-eight which is not provided with exit facilities as prescribed in this code, and in which the exit facilities are, in the opinion of the commissioner, inadequate for the safety of the occupants, shall be provided with such means of egress or fire protection as the commissioner shall direct.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-600.3 added LL 54/1970 § 5

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NYC Administrative Code 27-357

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 2 DETERMINATION OF EXIT REQUIREMENTS

§ 27-357 Exit requirements.

The determination of exit requirements for a building shall be based upon the occupancy group classification of the building, the number of occupants, the floor area, the travel distance to an exit, and the capacity of the exits, as provided in table 6-1 and herein. Every floor of a building shall be provided with exit facilities for its occupant load. The occupant loads of floors shall not be cumulative for the purpose of designing vertical exits, except where one floor is used by another as a means of egress. Vertical exits provided from any floor above grade may serve simultaneously all floors above grade, and vertical exits provided from any floor below grade may serve simultaneously all floors below grade.

(a) Mixed occupancy. When a building is classified in more than one occupancy group in accordance with the provisions of section 27-239 of article two of subchapter three of this chapter, the exit requirements for the entire building shall be determined on the basis of the occupancy group having the strictest exit requirements, or the exit requirements for each building section shall be determined separately.

(b) Incidental occupancies. When a building contains incidental occupancies classified in occupancy groups other than that under which the building is classified, the exit requirements for the floor on which such occupancies

occur shall be based upon those of the occupancy group under which the building is classified; but the access and exit requirements for the incidental occupancy shall be based upon the occupancy group classification of the incidental occupancy.

(c) Multiple occupancy or use. Where a building, floor, or space is used for multiple purposes involving different activities at different times, that occupancy involving the greatest number of occupants shall be used in determining the exit requirements.

(d) Building access.-All buildings classified in other than occupancy groups A, mechanical and electrical equipment rooms and boiler and furnace rooms of D-2 or J-3 shall have at least one primary entrance accessible to and usable by individuals who use wheelchairs. Such entrance shall provide access to a level that makes elevators available in buildings where elevators are provided. Where ramps are used to comply with this requirement, they shall have a slope not greater than one in twelve and shall otherwise conform to the provisions of section 27-377 and reference standard RS 4-6.

[Table 6]: TTable 6-1 Determination of Exit and Access Requirements

Occupancy Group. of Building or Space	Group Designation	Maximum Travel Distance (ft.)a	Capacity Number of Persons per Unit of Width	Corridorsi		Doors Openingsm	Stairs, Escalators,k	Ramps.b Corridors, Exit Passageways,j Horizont. Exits	Min. Width (in.)	Max. Dead End (length in ft.)
				Unsprinklered	Sprinklered					
High Hazard	A	N.P.	150	50	40	30	50	36	N.P.	
Storage	B-1c	100	150	75	60	45	75	36	50	

B-2c	125	175						N.R.
			_ 75	_ 60	_ 45	_ 75	_ 36	

Mercantile	C	150	200	100	80	60	100	36	50

In-dustrial	D-1	125	175	100	80	60	100	44	50
	D-2	150	200	100			100		
					_ 80	_ 60		_ 44	_ 50

Business	E	200	300	100	80	60	100	44	50

Assembly*	F	150	200	100	80	60	100	44	30

Educational	G	150	200	100	80	60	100	66e	30d

In-stitu-tional	H-1	125	175	50	40	30	50	36	40

H-2	125	175					96f	30g
			_ 30	_ 30	_ 15	_ 30		
Re	J-1	150	200	50	40	30	50	36	40
sid									
en-									
tial									
	J-2	150	200						
	J-3	N.R.	N.R.						
				_ 50	_ 40	_ 30	_ 50	_ 36	_ 40
				N.R.	N.R.	N.R.	N.R.	N.R.	N.R.

N.P.-Not permitted.

N.R.-No requirements (except as provided in section 27-375).

* See Table 8-1 for exit and access requirements applying to places of assembly.

The commissioner may waive the requirements of this section in the alteration of buildings existing on the effective date of this code in accordance with section 27-292.6 of this code.

Notes for Table 6-1:

[a] For method of measurement see subdivision (c) of section 27-360 of this article.

[b] Reduce listed capacity of ramps by twenty-five percent when slope exceeds 1 in 10.

[c] Except for public garages. (See article ten of subchapter seven of this chapter.)

[d] There shall not be more than one classroom on each side of a corridor between an exit and the end of the corridor (dead end).

[e] Applies to corridors serving classrooms. Other corridors shall have a minimum width of forty-four inches.

f Applies to corridors serving patients. Other corridors shall have a minimum width of forty-four inches.

g There shall be no patient bedrooms between an exit and the end of the corridor (dead end).

h See subdivision (d) of section 27-369 of article five of this subchapter for permissible increase.

i See section 27-369 of article five of this subchapter.

j See section 27-370 of article five of this subchapter.

k See section 27-378 of article five of this subchapter.

m Where a door opening is divided by mullions into two or more door openings, each such opening shall be measured separately in computing the number of units of exit width.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (d) amended L.L. 58/1987 § 10

DERIVATION

Formerly § C26-601.1 added LL 76/1968 § 1

Sub d amended L.L. 39/1972 § 23

(General recodification of §§ C26-272.0, -273.0 from original

code)

Formerly § C26-272.0 added chap 929/1937 § 1

Amended L.L. 57/1956 § 1

Amended L.L. 54/1958 § 1

Amended L.L. 47/1968 § 1

Formerly § C26-273.0 added chap 929/1937 § 1

Sub c par 1 subpar f amended L.L. 118/1939 § 1

Sub c par 1 subpar c amended L.L. 119/1939 § 1

Sub b par 3 subpar d amended L.L. 155/1939 § 1

Sub b par 3 subpar a item 3 amended L.L. 159/1939 § 1

Sub c par 1 subpar d amended L.L. 160/1939 § 1

Sub e par 1 amended L.L. 69/1940 § 1

Sub d par 1 amended L.L. 128/1951 § 1

Sub c par 1 amended L.L. 152/1951 § 1

Sub b par 3 subpar a item 3 amended L.L. 79/1956 § 1

Sub b par 1 amended L.L. 57/1958 § 1

Sub d pars 1, 2, 3 amended L.L. 57/1958 § 2

Sub d par 8 added L.L. 12/1961 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. The Deputy Commissioner of the Department of Housing and Buildings did not have the power to order the owner of a lodging house to erect fire-retarding stairways and ceilings and to put a stairway and bulkhead to the roof of the premises where the premises were erected prior to 1901 (the time of adoption of the old tenement house law) and a certificate of occupancy, issued in 1921, was never revoked. The work involved structural changes which an administrative officer may order only when authorized by a specific statute.-Matter of Lyons v. Prince, 257 App. Div. 202, 12 N.Y.S. 2d 466 [1939].

NYC Administrative Code 27-358

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 2 DETERMINATION OF EXIT REQUIREMENTS

§ 27-358 Occupant load.

The number of occupants for whom exit facilities shall be provided shall be established either (1) by the actual number of occupants for whom each occupied space, floor, or building, as the case may be, is designed, or (2) by using the appropriate occupant-area ratios from table 6-2, whichever is larger. The occupant load of any space shall include the occupant load of all spaces that discharge through it in order to gain access to an exit.

[See tabular material in printed version]

Notes:

C-capacity of all passenger vehicles that can be unloaded simultaneously.

D-designed number of seats or occupants.

(a) Unlisted occupancies. Where data regarding the sq. ft. per person for an occupancy is not listed in table 6-2, the occupant load shall be established by an architect or engineer, subject to the approval of the commissioner.

(b) Modifications.

(1) When the actual occupant load of any space will be significantly lower than that listed in table 6-2, the commissioner may establish a lower basis for the determination of the occupant load.

(2) When a building existing on December sixth, nineteen hundred sixty-eight is altered or changed in occupancy or use so as to require enlarged exit facilities, the commissioner may authorize the alteration or change in occupancy or use without an enlargement of exit facilities, provided the occupant load is limited to that accommodated by the existing exit facilities as determined by the provisions of this code, and the building or space is posted accordingly with a sign. Such signs shall be at least twelve inches in width and sixteen inches in height. The lettering shall be red on a white background. The letters shall be not less than one inch high and the numerals not less than one and onequarter inches high.

(c) Nonsimultaneous occupancy. The occupant load of toilets, locker rooms, meeting rooms, storage rooms, employee cafeterias, and similar rooms or spaces that are not occupied at the same time as other rooms or spaces on the same floor of a building, may be omitted from the occupant load calculation of the floor on which they are located to the extent that such spaces serve occupied rooms on the same floor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-601.2 added LL 76/1968 § 1

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NYC Administrative Code 27-359

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 2 DETERMINATION OF EXIT REQUIREMENTS

§ 27-359 Capacity of exits.

The capacity of exits and access facilities shall be measured in units of width of twenty-two inches, and the number of persons per unit of width shall be determined by the occupancy group classification and type of exit as listed in table 6-1. Fractions of a unit of width less than twelve inches shall not be credited. Where twelve inches or more are added to one or more full units of width, onehalf unit of width may be credited. Where computations of total required width give fractional results, the next larger integral number of exit units or integral number plus one-half, shall be used. A fraction less than one-half may be neglected in cases where such fraction constitutes less than ten per cent of the total required number of units. Notwithstanding any of the above computations, no exit or access facility shall be narrower than the minimum width requirements specified in table 6-1, or elsewhere in this code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-601.3 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-360

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 2 DETERMINATION OF EXIT REQUIREMENTS

§ 27-360 Travel distance.

(a) General requirement. The maximum travel distance from the most remote point in any room or space to the center of a door opening directly on an open exterior space, a vertical exit, an interior stair, an exit passageway or to a horizontal exit shall not be greater than the limit specified in table 6-1 for the occupancy group classification of the room or space.

(b) Travel distance within dwelling units. In buildings classified in occupancy groups J-1 and J-2, the maximum travel distance from the centerline of a door from any habitable room within a dwelling unit either to the centerline of a door opening on a corridor or to the center of a door opening on an exit shall not be greater than forty feet, except that for buildings classified in occupancy group J-2 of construction class I-A, the distance may be increased to fifty feet. Such travel distances shall be included in the maximum travel distance established in subdivision (a) of this section.

(c) Measurement. Travel distance shall be measured along a natural and unobstructed path of travel. Where the path of travel is over an access stair, it shall be measured along an inclined straight line through the center of the outer edge of each tread.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-601.4 added LL 76/1968 § 1

Sub b amended LL 32/1971 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-361

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 3 LOCATION OF EXITS

§ 27-361 Arrangement.

All exits and access facilities shall be located so that they are clearly visible, or their locations clearly indicated, and they shall be kept readily accessible and unobstructed at all times.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-602.1 added LL 76/1968 § 1

CASE NOTES

¶ 1. U.S.T.A. National Tennis Center allowed passageway exits to become obstructed by spectators not allowed to proceed to their seats because of on court play. Blocked exits are a primary cause of injuries and death when disasters occur at public events. This was a clear violation of §§ 27-361 and 27-531 and prior notification provision of §

26-246(a)(1) is not required nor is prosecution subject to discontinuance because condition was corrected. People v. U.S.T.A. Nat. Tennis Center, 144 Misc. 2d 449 [1989].

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-362

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 3 LOCATION OF EXITS

§ 27-362 Tenant spaces.

When more than one tenant occupies a building or floor area, each tenant shall have direct access to the required number of exits without passing through premises occupied by other tenants, except as permitted for balconies in subdivision (g) of section 27-369 of article five of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-602.2 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-363

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 3 LOCATION OF EXITS

§ 27-363 Remote location.

(a) When more than one exit is required from a floor of a building, each such required exit shall be placed as remote from the others as is practicable. Where this results in a distance between exits exceeding the maximum travel distances required by section 27-357, additional remote vertical exits shall be provided.

(b) In addition to the requirements of subdivision (a) of this section:

(1) For exits serving spaces classified in occupancy groups G or J-2, in no event shall such exits be less than fifteen feet distant from each other.

(2) For exits serving spaces classified in other occupancies, in no event shall such distance be less than thirty feet or one-third the maximum travel distance required by section 27-357, whichever is greater.

(c) On any floor containing ten thousand square feet or more in a high rise building classified in occupancy group E (office space), each exit that is required to be remote from another exit shall not share any common walls, floors, ceilings, scissor stair assemblies, or other enclosures.

HISTORICAL NOTE

Section amended L.L. 26/2004 § 10, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-602.3 added LL 76/1968 § 1

Amended LL 16/1984 § 35

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-364

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 3 LOCATION OF EXITS

§ 27-364 Exit discharge.

All vertical exits shall extend in a continuous enclosure to discharge directly, or by way of a yard, court, or exit passageway, to an open exterior space. When vertical exits serving floors above grade continue in the same enclosure to serve floors below grade, the portion of such vertical exits above grade shall be separated from the portion below grade by construction having at least a one hour fire-resistance rating, with three-quarter hour self-closing doors opening in the direction of exit travel from the floors below grade, except that buildings classified in residential occupancy group J-3 and educational occupancy group G shall be exempt from this requirement.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-602.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-365

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 4 NUMBER OF EXITS

§ 27-365 Egress from rooms and spaces.

(a) There shall be at least two door openings, remote from each other and leading to exits, from every room or enclosed space in which the total occupant loads exceeds the number of persons listed in table 6-3.

TABLE 6-3

Maximum Occupant Load-Spaces With One Door

Occupancy Group Classification	Max. Occupant Load With One Door
A	10
B	50
C	75

D	50
E	75
F	75
G	75
H	15
J	20

(b) Except as otherwise provided for in subdivisions (c) and (d) of this section, in buildings of combustible construction group II exceeding two stories in height there shall be at least two door openings from each J-1 or J-2 dwelling unit which shall be remote from each other. Each door opening shall lead to separate exits either directly or by separate corridors or one door opening shall lead to an exit and the other to a balcony complying with subdivision (g) of section 27-369 of article five of this subchapter.

(c) In buildings or spaces classified in occupancy group J-2 not more than three stories and forty feet in height, occupied by not more than four families on each story and of combustible construction group II there shall be at least two door openings from each J-2 dwelling unit which shall be remote from each other. One door opening shall lead to an exit and the other to a balcony complying with subdivision (g) of section 27-369 of article five of this subchapter.

(d) Buildings not exceeding three stories in height and occupied exclusively by not more than one family on each story without boarders, roomers or lodgers are exempt from the provisions of subdivisions (b) and (c) of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-603.1 added LL 76/1968 § 1

Amended LL 61/1969 § 11

CASE NOTES FROM FORMER SECTION

¶ 1. The provisions of this section and § C26-284.00 provide that every building with a ground floor area exceeding 2,500 square feet should at least have two means of egress, with doors opening outward projecting not more than 18 inches. Basically, these provisions are intended as a safeguard for occupants of the building in the event of fire. The owner of a building located on a land sought by the City for a public parking place was not entitled to damages for the cost of partial reconstruction of the building in order to comply with the above-quoted provisions, where the City proposed to provide for a public walk running along the side of the building and thence to the street.-Matter of the City of New York (Parking Fields), 16 Misc. 2d 915, 181 N.Y.S. 2d 446 [1958].

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NYC Administrative Code 27-366

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 4 NUMBER OF EXITS

§ 27-366 Exits from floors.

1. There shall be at least two independent exits, remote from each other, from every floor of a building, except that only one exit may be provided from floors in:

(a) One and two family dwellings.

(b) Buildings classified in occupancy group J-2 of noncombustible construction group I or occupancy group E that are not more than sixty feet in height, have a gross area of two thousand square feet or less per floor, and have a maximum travel distance of fifty feet on any floor.

(c) Buildings classified in occupancy group J-1 or J-2 that are not more than two stories and thirty feet in height and have a maximum travel distance of eighty feet and the corridors and stair enclosure are provided with automatic sprinkler protection complying with the construction provisions of subchapter seventeen of this chapter.

(d) Buildings classified in occupancy group J-2 occupied exclusively by not more than one family on each story without boarders, roomers or lodgers and not more than three stories and forty feet in height, and the stair enclosure is

provided with automatic sprinkler protection complying with the construction provisions of subchapter seventeen of this chapter and without openings between any garage and the exit passageway.

(e) Buildings classified in occupancy group J-2 not more than three stories and forty feet in height occupied by not more than four families on each story.

2. Notwithstanding the exit requirements of this section, in buildings classified in occupancy group J-2 of construction class I-A, one level of an apartment occupying a part of not more than two floors need only be provided with a balcony that complies with subdivision (g) of section 27-369 of article five of this subchapter, provided that, in addition, the stair within such apartment shall be at least two feet six inches in width and terminates not more than twenty feet from a corridor door on the other level that shall provide the required access to at least two independent exits. The center line of such corridor door shall be not more than fifty feet from any room within such apartment.

3. Notwithstanding any other provision of this section, when, within a building, any place of assembly has an occupant load between five hundred and nine hundred ninety-nine persons, there shall be provided at least three independent exits, remote from each other, from each floor; any such place of assembly with an occupant load of one thousand or more persons shall be provided with at least four independent exits, remote from each other, from each floor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-603.2 added LL 76/1968 § 1

Amended LL 61/1969 § 12

Amended LL 32/1971 § 2

Sub 3 added LL 16/1984 § 36

CASE NOTES

¶ 1. Exterior stairs used as exits in lieu of interior stairs pursuant to Ad Cd §§ 27-366, 27-376 need not meet the handrail requiremenmts for interior stairs of Ad Cd § 27-375(f) unless it is established such exterior stairs and not other interior stairs are being used to satisfy the requirements. Taylor v. City of New York, 150 Misc. 2d 528 [1991] reversing 144 Misc. 2d 1029.

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NYC Administrative Code 27-367

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 4 NUMBER OF EXITS

§ 27-367 Exit reduction.

When a floor area has access to areas of refuge that comply with the requirements of section 27-372 of article five of this subchapter, the number of persons for whom vertical exits are to be provided may be reduced to fifty per cent of the occupant load of the floor area when one area of refuge is provided, and may be reduced to thirty-three and one-third per cent of the floor area when two areas of refuge are provided. This section shall not be applicable to any new or altered place of assembly, except for such places of assembly in fully sprinklered office buildings which occupy less than twenty percent of the floor area occupied by the principal use.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-603.3 added LL 76/1968 § 1

Amended LL 16/1984 § 37

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NYC Administrative Code 27-368

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-368 General.

(a) Means of egress shall be provided for all buildings by one or more of the facilities listed below. Access and exit facilities not specifically covered in this section shall not be used to satisfy the exit requirements of this code. Fire escapes shall not be permitted on new construction, with the exception of group homes. Fire escapes may be used as exits on buildings existing on December sixth, nineteen hundred sixty-eight when such buildings are altered, subject to the approval of the commissioner, or as provided in subdivision (b) hereof. Elevators or escalators shall be provided in all new buildings exceeding four stories in height except that buildings or building sections classified in occupancy group H-2 exceeding one story in height and buildings or building sections classified in occupancy group G or J-1 exceeding two stories in height shall be provided with elevators.

(b) In group homes all floors used by children shall have alternate exits remotely located from each other and readily accessible to the occupants. Fire escapes shall be permitted as the second means of egress.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.1 added LL 76/1968 § 1

Amended LL 28/1975 § 3

Sub a amended LL 16/1984 § 38

CASE NOTES

¶ 1. A fire escape is an appurtenance which landowners are required to maintain and from which they are required to afford ready egress. However, where there was no evidence that a fire escape was in poor condition or unfit for its intended use in an emergency, and the fire escape ladder was repeatedly lowered by neighborhood youngsters who accessed the fire escape by climbing a fence on the adjacent property, despite efforts of the owner to keep the ladder in an upright position, the owner was not liable to a child who fell while climbing the fire escape ladder. Nunez v. 38 Sickles Street Corp., 269 A.D.2d 127, 703 N.Y.S.2d 16 (App.Div. 1st Dept. 2000).

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NYC Administrative Code 27-369

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-369 Corridors.

Corridors shall be kept readily accessible and unobstructed at all times. Corridors shall be kept free of combustible contents except that in buildings classified in occupancy groups G, H-1 and H-2, combustible contents may be stored in noncombustible lockers and combustible bulletin boards meeting the requirements of table 5-4 shall be permitted.

(a) Capacity. The capacity and minimum width of corridors shall be as listed in table 6-1. Width shall be measured in the clear between the narrowest points produced by any projections such as radiators, lockers, drinking fountains, or room or locker door swings, except that such width may be reduced by projections up to eighteen inches wide to the extent of two inches per unit of exit width if the total area of such projections does not exceed five per cent of the area of the wall on which they occur.

(b) Height. Corridors shall have a clear height of seven feet six inches for at least seventy-five per cent of the floor area, with no point less than seven feet in height. No projection below the ceiling shall be located so as to obstruct full view of exit signs.

(c) Length. Corridors shall be subdivided by smoke barriers, as defined in subchapter two, into the following

lengths:

[See tabular material in printed version]

Where smoke barriers are penetrated by doors, such doors shall be smoke stop doors in conformance with subdivision (c) of section 27-371 of this article.

(d) Dead ends. Dead ends in corridors shall not exceed the length listed in table 6-1, except that in all occupancy groups except occupancy group H, when a corridor is completely enclosed in construction having a two hour fire-resistance rating, with all corridor doors being self-closing and having a fire protection rating of one and one-half hours, the permissible length of dead ends may be increased one hundred per cent above the length listed in table 6-1. Dead end distance shall be measured from the centerline of the door opening nearest to the closed end of the corridor to the center of an exit door opening, or the center of that point in the corridor where travel to two or more exits becomes available in two directions.

(e) Changes in level. Changes in level requiring less than two risers in a corridor shall be by a ramp complying with section 27-377 of this article. Risers and treads shall comply with the requirements of subdivision (e) of section 27-375 of this article.

(f) Exterior corridors. Exterior corridors shall be roofed, and shall have solid floors drained to prevent accumulations of standing water. Such floors may serve as fire canopies when so constructed. Exterior corridors shall be protected along their outer side by guards or parapets at least three feet six inches high. Openings in guards or parapets shall be of such dimensions as to prevent the passage of a five inch dia. ball. Where the outer side of an exterior corridor is more than fifty per cent enclosed with solid material, it shall be treated as an interior corridor.

(g) Balconies. Balconies may serve as a means of egress from dwelling units in buildings classified in occupancy group J-2 under the following conditions:

(1) They shall serve at least two dwelling units.

(2) They shall be constructed as required for exterior corridors, except that parapets or guards shall not be higher than four feet on the outer side of the balcony.

(3) The dwelling units served by balconies shall be separated from each other by construction having at least a two hour fire resistance rating. Such separation shall extend at least three feet beyond the outside face of the exterior wall of the building, although such projection may be reduced to two feet six inches provided that any window opening on each such balcony served by the fire separation shall be at least two inches from such fire separation for every one inch that such separation is less than thirty-six inches. An opening at least twenty inches wide shall be provided between the end of this separation and the balcony parapet or guard, and the opening shall be maintained free and unobstructed for the full height of the balcony, except that privacy screens openable from either side may be permitted in the opening.

(4) Access from dwelling units to the balconies shall be through doors having glass panels at least two feet wide and four feet high, without muntins, screens, or other obstructions to hinder entry by breaking the glass panels. The doors shall be lockable only from the inside by devices that can be easily released from the outside after breaking the glass. A combination lock or lock required to be opened by a key or removable device or tool shall not be used.

(h) Construction.

(1) Interior corridors. Interior corridors shall be completely enclosed within fire separations to provide a minimum fire-resistance rating of one hour except as otherwise provided in subparagraphs a through c of this paragraph:

a. For buildings or spaces classified in occupancy group J-1 or J-2 of combustible construction group II

exceeding two stories in height, except for buildings not exceeding three stories in height and occupied exclusively by not more than one family on each story without boarders, roomers or lodgers, corridors shall be enclosed within fire separations providing a minimum fire-resistance rating of two hours.

b. Corridor partitions may be omitted or may be constructed of unrated noncombustible material in buildings in occupancy group H-2 in the following instances: nurses' stations not exceeding three hundred fifty square feet in area, waiting spaces, lounges and recreational spaces for patients and visitors which do not exceed five hundred square feet in area, spaces used solely for public telephones, and all other spaces which are completely protected by an automatic wet sprinkler system complying with the construction requirements of subchapter seventeen of this code.

c. Corridor partitions may be omitted in spaces of occupancy group H-1 used for detention of persons under legal restraint.

(2) Exterior corridors and balconies. Exterior corridors and balconies shall be constructed of noncombustible materials.

(i) Borrowed lights. No operable transoms shall be permitted in walls of corridors. In corridors required to have a one hour fire-resistance rating, fixed one-quarter inch wire glass panels may be installed in not more than twenty percent of the common wall between the corridor and any room or space, provided that no panel exceeds seven hundred twenty square inches in area; however, openings permitted in paragraph three of subdivision (h) of section 27-370 of this article may be permitted provided all of the limitations and requirements specified in that section are complied with, except that openings in corridor walls serving as fire divisions required to have a fire-resistance rating shall be limited to those specified in section 27-342 of article five of subchapter five of this chapter.

(j) Ventilation. Corridors shall be ventilated in accordance with the requirements of subchapter twelve of this chapter. Corridors shall not be used as open plenums or as ducts to exhaust air from rooms or spaces opening upon them, except as permitted in reference standard RS 13-1.

(k) Interior finish. The interior finish of corridors shall be in accordance with the requirements of table 5-4.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.2 added LL 76/1968 § 1

Sub h amended LL 61/1969 § 13

Sub i amended LL 21/1972 § 1

Sub g par 3 amended LL 65/1980 § 1

Sub h par 1 amended LL 70/1981 § 1

Sub c amended LL 16/1984 § 39

Sub d amended LL 16/1984 § 40

Sub h amended LL 16/1984 § 41

CASE NOTES FROM FORMER SECTION

¶ 1. Administrative Code §§ C26-300.0 and C26-568.0, subd. d, rendering it unlawful for owner of structure on which there is a party wall balcony serving as required means of egress from an adjoining structure, to remove such balcony or to prevent or obstruct egress therefrom to and from his own structure unless he has erected or obligated himself to erect thereon a fire escape or other means of egress, **held** a constitutional exercise of police powers. Hence, where adjoining owner boarded up his premises, thus preventing tenants residing in plaintiff's apartment from using defendant's premises as a means of egress to street by way of the party wall balcony, and plaintiff had thereupon been required to construct fire escapes, plaintiff **held** entitled to recover from defendant the cost of such construction. That defendant was required to board up the premises by provisions of the Multiple Dwelling Law did not relieve it of liability, since provisions of the Multiple Dwelling Law and the applicable provisions of the Administrative Code did not relate to the subject matter and were reconcilable.-Hafner v. Erdreich Realty Corp., 170 Misc. 846, 11 N.Y.S. 2d 142 [1939]; aff'd by App. Term, N.Y.L.J. (11-24-39) 1772, Col. 6 F.

¶ 2. Under Administrative Code § C26-300.0, requiring each owner of an adjoining building with party balconies to maintain that part of the balcony attached to his building and not obstruct egress through his building, such an owner boarding up his building is liable for the resulting damages.-348 St. Nick Corp. v. Northchester Corp., 53 N.Y.S. 2d 364 [1945].

CASE NOTES

¶ 1. A fireman was injured while attempting to rescue people in an apartment on an upper floor of a building. The fireman sued the building owner to recover for personal and alleged, in part, that the presence of combustible materials (i.e. paint supplies, lacquer and benzene) on a lower floor (which presence violates § 27-369) constituted negligence. The court held that the statutory violation was the proximate cause of the injury. The presence of paints and other combustible materials, which caused a smoke condtition, prevented the occupants of the upper floor apartment from escaping by way of the corridor into the street. If it hadn't been for that smoke (caused by the combusible materials), plaintiff would not have had to recue the occupants of the apartment and would not have been injured. O'Connell v. Kavanaugh, 1997 Westlaw 417217, (App.Div. 1st Dept).

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CHAPTER 1 BUILDING CODE

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-370 Exit passageways.

Exit passageways shall be maintained free of obstructions at all times. Not more than fifty percent of the total number of vertical exits provided for a building may be served by a single exit passageway, except as provided in subdivision (h) of section 27-370 of this article.

(a) Capacity. The capacity of exit passageways shall be as listed in table 6-1.

(b) Width. The width of an exit passageway serving one vertical exit shall be equal to the width of the vertical exit. The width of an exit passageway serving two or more vertical exits shall be equal to seventy-five percent of the width of all of the vertical exits that it serves. Width shall be measured in the clear between the narrowest points at any projections such as radiators, door swings, or pilasters.

(c) Height. Exit passageways shall have a clear height of seven feet six inches for at least seventy-five per cent of the floor area, with no point less than seven feet in height. No projection below the ceiling shall be located so as to obstruct full view of exit signs.

(d) Changes in level. Changes in level requiring less than two risers in an exit passageway shall be by a ramp complying with section 27-377 of this article. Risers and treads shall comply with the requirements of subdivision (e) of section 27-375 of this article.

(e) Construction. The construction of exit passageways shall be as required by table 3-4 for the applicable construction class of the building.

(f) Openings. No openings other than exit doors shall be permitted in exit passageways, except as provided in subdivision (h) of this section.

(g) Interior finish. The interior finish of exit passageways shall be in accordance with the requirements of table 5-4.

(h) Street floor lobbies. Street floor lobbies may be used as exit passageways when they comply with the requirements of subdivisions (a) through (g) of this section subject to the following modifications:

(1) VERTICAL EXITS SERVED. One hundred per cent of the total number of vertical exits provided for a building may be served by a street floor lobby, if egress is provided in two different directions from the discharge points of all vertical exits to open exterior spaces that are remote from each other.

(2) WIDTH. Street floor lobbies serving as exit passageways shall be increased in width to accommodate the occupant load of all communicating spaces on the lobby floor that exit through them. The capacity per unit of width shall be as listed in table 6-1.

(3) OPENINGS. Openings between street floor lobbies serving as exit passageways and elevators or communicating spaces shall comply with the following:

a. Doors. 1. Doors to stairways and elevators, and unsprinklered communicating spaces classified in occupancy group B-2, D-2, F-1 or F-2 shall be self-closing fire doors having a one and one-half hour fire protection rating.

2. Doors to unsprinklered communicating spaces classified in occupancy group G, H or J, or sprinklered communicating spaces classified in occupancy group B-2, D-2, F-1 or F-2 may be either:

(a) self-closing fire doors having a three-quarter hour fire protection rating, or

(b) glass or other noncombustible doors installed in conjunction with automatic fire doors having a one and one-half hour fire protection rating, with sprinkler heads installed over the doors on the room side.

3. No other door openings shall be authorized except as otherwise provided in this section.

b. Other openings. Other openings to spaces classified in occupancy group C, E, F, G, H or J shall be permitted, provided they have a maximum length of eight feet and a maximum height of eight feet, are glazed by one-quarter inch polished plate glass or equivalent and are protected by automatic fire doors having a one and one-half hour fire protection rating and by automatic sprinklers complying with the construction requirements of subchapter seventeen of this chapter over the openings on the room side.

c. Separations and limitations. Openings permitted by subparagraphs a and b of this paragraph shall not exceed in total length fifty per cent of the length of such enclosure wall except where the length of such wall is less than sixteen feet. Adjoining openings shall be separated from each other a minimum of three feet by construction having a two hour fire-resistance rating.

d. Notwithstanding the restrictions in subparagraphs a, b, and c of this paragraph, the following openings may be authorized:

1. A space classified in occupancy group C, E, F-3 or, F-4 within fire separations having a minimum fire-resistance rating of one hour, with an area not exceeding twenty-five hundred square feet, may have an unlimited length of show window under the following conditions:

(a) The maximum depth of show window shall be three feet.

(b) Automatic sprinklers complying with the construction requirements of subchapter seventeen of this chapter, shall be provided in the show window display area.

(c) The show window display area shall be protected on all sides, except for the glazed window, by construction having a two hour fire-resistance rating with access provided by means of a fireproof selfclosing door having a three-quarter hour fire protection rating.

(d) The show window shall be glazed by one-quarter inch polished plate glass or equivalent.

(e) Glass or other noncombustible doors may be used for entrance to or egress from the space within fire separations when installed in combination with automatic fire doors having a one and one-half hour fire protection rating. Such automatic fire doors shall be located on the room side and shall be held open by approved door-holding devices actuated to release automatically upon the activation of smoke detecting devices, whether of the photoelectric cell or other approved type. In addition, automatic sprinkler heads, complying with the construction requirements of subchapter seventeen of this chapter, shall be provided over the door openings on the room side.

2. A space classified in occupancy group C, E, F-3, or F-4 within fire separations having a minimum fire-resistance rating of one hour, with an area not exceeding three thousand square feet, may have a maximum total length of unprotected openings upon a corridor or exit passageway not exceeding fifty percent of the space frontage along such corridor or exit passageway under the following conditions:

(a) The entire space shall be provided with automatic sprinklers complying with the construction requirements of subchapter seventeen of this chapter.

(b) The show window shall be glazed by one-quarter inch polished plate glass or equivalent.

(c) All corridor or exit passageway doors shall be self-closing, noncombustible, and smokeproof.

3. Show windows or other openings of unlimited lengths and heights shall be permitted on any corridor or exit passageway without requirements for fire-resistance doors under the following conditions:

(a) The entire floor area, including the corridors or exit passageways, shall be provided with automatic sprinklers complying with the construction requirements of subchapter seventeen of this chapter.

(b) The occupancy of all spaces on the floor shall be limited to occupancy groups C, E, F-3 and F-4.

(c) The widths of the corridors or passageways shall exceed the requirements of table 6-1 or subdivision (b) of this section, whichever is applicable, by at least fifty percent.

(d) All doors opening on the corridors or exit passageways shall be smokeproof, noncombustible self-closing doors.

(e) Show windows or other openings shall be glazed by one-quarter inch polished plate glass or equivalent.

(f) Each corridor or exit passageway shall be provided with a fresh air intake, a positive smoke exhaust system and smoke detectors which, when activated, shall permit circulation only of fresh air.

(4) OCCUPANCY. Street floor lobbies serving as exit passageways may be occupied by newsstands, candy and tobacco stands, information booths or similar occupancies, if such stands or booths are constructed of noncombustible materials, or of materials which comply with the requirements of section 27-348 of article five of subchapter five of this chapter for interior finish for exit passageways, provided that such stands or booths:

a. do not occupy more than one hundred square feet or five percent of the net floor area of the lobby, whichever is greater; and

b. do not reduce the required clear width of the lobby at any point; and

c. if constructed of combustible materials are protected by no less than two automatic sprinkler heads. Water for such sprinkler heads may be supplied from the domestic water supply system.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.3 added chap 929/1937 § 1

Sub e amended LL 63/1954 § 1

Sub g added LL 63/1954 § 2

Repealed and added LL 76/1968 § 1

(formerly § C26-289.0)

Sub h par 3 amended LL 54/1970 § 6

Sub h par 3 amended LL 21/1972 § 2

Sub h par 4 repealed and added LL 49/1975 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-371

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-371 Doors.

Exit doors and doors providing access to exits shall comply with the following:

(a) Exit doors. Doors for required exits shall be self-closing swinging doors with a one and one-half hour fire protection rating, except in occupancy group J-3 buildings and except that:

(1) Exterior street floor exit doors having an exterior separation of more than fifteen feet need not have a fire-protection rating.

(2) Doors into stairs and exit passageways shall have at least a three-quarter hour fire protection rating.

(b) Corridor doors. Doors that provide access to interior corridors required to have a one hour fire-resistance rating shall be self-closing swinging fire doors with a three-quarter hour fire-protection rating, except that in buildings classified in occupancy group G, in which an acceptable interior fire alarm system is installed and in which regular supervised fire drills are held, the doors to rooms or spaces devoted exclusively to nonhazardous uses in occupancy group G need not be fire-rated, provided they are swinging, self-closing one and three-quarter inch solid core wood, and

have a maximum area of seven hundred twenty square inches of one-quarter inch thick wired glass vision panels. Other corridor doors except those provided for in subdivision (d) of section 27-369 of this article, shall be self-closing, swinging, noncombustible or one and three-quarter inch solid core wood doors, except that in buildings classified in occupancy group H-2 the doors need not be self-closing. Noncombustible mail slots having an area not exceeding forty square inches may be provided in corridor doors when the opening is protected by a closure activated by gravity or a spring device so as to keep it closed when not in use. Noncombustible louvers may be installed in corridor doors opening into toilets, service sink closets, and electric closets. Notwithstanding the foregoing restrictions in this subdivision, doors not prohibited by subdivision (d) of this section may open from spaces into corridors when in compliance with all of the provisions of paragraph three of subdivision (h) of section 27-370 of this article.

(c) Smoke stop doors. Smoke stop doors shall be self-closing, swinging doors of metal, metal covered, or one and three-quarter inch solid core wood with clear wire glass panels having a minimum area of six hundred square inches per door and a maximum area of twelve hundred ninety-six square inches per door, except that in buildings not over two stories high, smoke stop doors may be of one and three-eighths inch solid core wood with clear wire glass panels, unless the doors are also used as horizontal exits in which case they shall comply with the provisions of subdivision (b) of section 27-373 of this article. In addition, smoke stop doors may be constructed of tempered glazing or the equivalent and be protected by sprinkler heads constructed in accordance with subchapter seventeen of this chapter and installed a maximum of six feet (6'-0") on centers on each side of the opening. Smoke stop doors may be double-acting but shall close the opening completely with only such clearance as is reasonably necessary for proper operation. Smoke stop doors shall normally be in the closed position, except that they may be left open if they are arranged to close automatically by an approved device which is actuated by an interior fire alarm system meeting the requirements of subchapter seventeen of this chapter or upon smoke detection. Tempered glass smoke stop doors shall be marked where required in accordance with the rules of the board of standards and appeals.

(d) Prohibited doors. Vertically sliding doors, rolling shutters, and folding doors shall not be used as exit doors or as corridor doors, except that overhead garage doors may serve as exits from buildings classified in occupancy group J-3, and except that sliding or rolling doors or gates may be used in F-2 places of assembly provided they are kept open when the place of assembly is occupied. Revolving doors may be used only to the extent permitted by subdivision (m) of section 27-371 of this article. Automatic horizontally sliding fire doors shall be permitted only in horizontal exits in fire divisions required to have a four hour fire-resistance rating as specified in table 5-3.

(e) Door opening widths. The capacity of exit and corridor door openings shall be as listed in table 6-1. Door jambs or stops and the door thickness when open shall not reduce the required width by more than three inches for each twenty-two inches of width. The maximum width of any swinging door leaf shall be forty-eight inches. The minimum nominal width of corridor and exit door openings shall be thirty-six inches, except that where a door opening is divided by mullions into two or more door openings, the minimum nominal width of each such opening shall be thirty-two inches. The minimum nominal width of other door openings shall be as follows:

(1) Door openings to all habitable and occupiable rooms-thirty-two inches.

(2) Door swinging in pairs (no mullion), opening-forty-eight inches.

(3) Door openings to rooms used by bedridden patients and all single door openings used by patients in buildings classified occupancy group H-2-forty-four inches.

(4) Door openings to toilet rooms in buildings to which the public has free access shall be thirty-two inches.

(5) Door openings giving access to at least one toilet, lavatory and bathtub or shower in each dwelling unit, in buildings or spaces classified in occupancy group J-1 or J-2, when such dwelling unit is accessible to individuals in wheel chairs-thirty-two inches.

(6) Door openings giving access to all toilets, lavatories and bathtubs or showers serving single room

occupancies which are accessible to individuals in wheelchairs-thirty-two inches.

(7) Door openings for people having physical disabilities shall additionally comply with the requirements of reference standard RS 4-6.

(f) Door heights. The minimum nominal door opening height for exit and corridor doors shall be six feet eight inches. Door jambs, stops, sills, and closers shall not reduce the clear opening to less than six feet six inches.

(g) Door swing. Exit doors, corridor doors from rooms or spaces classified in high hazard occupancy group A, or from factories as defined in the labor law, and corridor doors from rooms required to have more than one door under the provisions of section 27-365 of article four of this subchapter, shall swing in the direction of exit travel, except:

(1) Doors from rooms of instruction in buildings classified in occupancy group G, having an occupant load of less than seventy-five persons.

(2) Exterior street floor exit doors from lobbies in buildings classified in occupancy groups J-2 and J-3.

(3) Exterior street floor exit doors from spaces in occupancy group C or E not exceeding two thousand square feet in area, and occupied by less than fifty persons, where the maximum travel distance to a door does not exceed fifty feet.

(h) Floor level. The floor on both sides of all exit and corridor doors shall be essentially level and at the same elevation for a distance, perpendicular to the door opening, at least equal to the width of the door leaf, except that where doors lead out of a building the floor level inside may be seven and one-half inches higher than the level outside.

(i) Closed doors. Exit doors and corridor doors shall normally be kept in the closed position, except that corridor doors in buildings classified in occupancy group H-2 shall be exempt from this requirement.

(j) Door and window hardware. Doors and windows shall be equipped with hardware as follows:

(1) Fire protection requirements.

a. Exit doors and corridors shall be readily openable at all times from the side from which egress is to be made and shall not require a key to operate from that side, except that:

1. Locks may be used in penal and mental institutions and areas, where required for security.

2. Locks may be used in banks, museums, jewelry stores and other places where extra safeguards are required, subject to the approval of the commissioner, and provided the locks are equipped with electrical release devices for remote control in case of emergency.

3. Stairways leading from the top floor to a roof may be provided with locked wire mesh gates openable by key in buildings classified in occupancy group G. The use of a hook and eye closing device on the inside of all doors to roofs shall be permitted.

b. Doors opening into interior stair enclosures shall not be locked from either side with the following exceptions:

1. Doors may be located to prevent access to the stair at the street floor.

2. In buildings classified in occupancy group E, less than one hundred feet in height, the doors may be locked on the stair side on each floor above the street floor.

3. In buildings classified in occupancy group E, one hundred feet or more in height, and existing office buildings

one hundred feet or more in height, the doors may be locked on the stair side above the street floor except that at intervals of four stories or less, doors shall be openable from the stair side without the use of a key to permit reentry at such floors. In addition, the door on every floor where a keyed switch is required by the provisions of subchapter eighteen of this chapter shall be openable from the stair side without the use of a key to permit reentry at such floors.

4. When a locked door is provided with an automatic fail safe system for opening such door in the event of the activation of any automatic fire detecting device or when any elevator in readiness as provided in section 27-989 of subchapter eighteen of this chapter is activated, such door shall be deemed as openable from the stairside. The installation of such automatic fail safe system shall comply with the requirements of reference standards RS17-3A and RS17-3B, whichever is applicable. Stair reentry signs required under section 27-394 of article nine of this subchapter shall specify that reentry is provided only during fire emergencies.

c. Latch bolts shall be provided on all exit doors and corridor doors to hold them in a closed position against the pressure of expanding gases except that this requirement shall not apply to doors in stair enclosures in buildings classified in occupancy group G.

(2) Security requirements. The following provisions shall apply to all buildings erected or altered after December sixth, nineteen hundred sixty-eight that may be classified in residential occupancy group J-2. Existing buildings in such group shall comply with the requirements of article eleven of subchapter two.

a. Building entrance doors and other exterior exit doors shall be equipped with heavy duty lock sets with auxiliary latch bolts to prevent the latch from being manipulated by means other than a key. Latch sets shall have stopwork in the inside cylinder controlled by a master key only. Outside cylinders of main entrance door locks shall be operated by the tenants' key, which shall not be keyed to also open the tenant's apartment door. A light or lights shall be provided at or near the outside of the front entranceway of the building providing not less than five foot candles intensity measured at the floor level for the full width of the entranceway.

b. Doors to dwelling units shall be equipped with a heavy duty latch set and a heavy duty dead bolt operable by a key from the outside and a thumb-turn from the inside. Those doors shall also be equipped with a chain guard so as to permit partial opening of the door. Dwelling unit entrance doors shall also be equipped with a viewing device located so as to enable a person on the inside of the entrance door to view a person immediately outside.

c. All openable windows shall be equipped with sash locks designed to be openable from the inside only. Grilles lockable from the inside only may be placed on the inside or outside of windows that are accessible from grade but that do not serve to provide access to exits.

d. Buildings classified in occupancy group J-2 containing eight or more dwelling units shall be provided with an intercommunication system located at the door giving access to the main entrance hall or lobby, consisting of a device or devices for voice communication between the occupant of each dwelling unit and a person outside said door to the main entrance hall or lobby and permitting such dwelling unit occupant to release the locking mechanism of said door from the dwelling unit.

(k) Panic hardware.

(1) Exit doors shall be equipped with fire exit bolts when providing an exit from:

a. Buildings classified in occupancy group G, except exit doors opening directly outdoors at grade from rooms having an occupant load of less than seventy-five persons,

b. F-1 places of assembly,

c. F-2, F-3 and F-4 places of assembly having an occupant load exceeding three hundred persons, except places

of assembly having doors that are not equipped with locks and are openable at all times.

(2) Fire exit bolts shall be of an approved type, and shall release when a pressure exceeding fifteen pounds is applied to the releasing device in the direction of exit travel. The bars or panels shall extend at least two-thirds of the width of the door and shall be placed at least thirty inches, but not more than forty-four inches above the floor.

(1) Power operated doors. Power operated doors or power assisted manually operated doors, may be used as exit or corridor doors provided they remain closed in case of power failure but shall be manually operable. No power operated door shall be credited as a required exit unless it swings in the direction of exit travel.

(m) Revolving doors. Revolving doors shall not be used as exits in buildings classified in occupancy group F-1 or F-2, G, or H; nor shall revolving doors be used in any occupancy as interior doors providing access to exits, at the foot of stairs, or at the head of basement stairs. Where revolving doors are used as exits, they shall comply with the following:

(1) They may provide not more than one unit or exit width for each revolving door and not more than fifty per cent of the required exit capacity at any location, provided that the revolving doors are located adjacent to, or within twenty feet, of swinging doors that provide the remaining required exit capacity at that location.

(2) They shall be collapsible, and designed and constructed so that: a. Each wing is independently supported by a hanger with a corrosion resistant safety release which, when pressure of between sixty to eighty pounds is exerted simultaneously on the wings on opposite sides of the door pivot, the door wings will fold back on themselves in the direction of egress.

b. Each wing is provided with at least one push bar and glazed with at least 7/1932 in. plate or tempered glass.

c. The inside diameter of the enclosure is at least six feet six inches.

d. The freely operable maximum rate of revolving speed is controlled so that it is not greater than fifteen rpm.

e. The upper surface of the floor finish within the door enclosure is flush with the adjacent floor area, and permanently secured in place.

(3) The owner shall be responsible at all times for the operation and maintenance of revolving doors, and shall have the doors inspected at intervals not to exceed six months. All parts of the doors, including the safety releases and speed control mechanism, shall be maintained in good working order. Inspection reports shall be made in writing and kept on file at the premises for at least two years.

(n) Turnstiles. No turnstile or other device designed to restrict travel shall be placed so as to obstruct any required exit, except that approved turnstiles that turn freely in the direction of exit travel may be used in any occupancy where revolving doors are permitted. Turnstiles shall be not more than thirty-six inches nor less than thirty inches high and shall be of such design as to provide twenty-two inches clear width as the turnstile rotates. Each turnstile may be credited with a capacity of one unit of exit width. Not more than fifty per cent of the required exit capacity may be provided by turnstiles at any location. The balance of the required exit capacity shall be provided by swinging doors located within twenty feet of the turnstiles. Turnstiles over thirty-six inches high shall meet the applicable requirements of this code for revolving doors.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (c) amended L.L. 26/2004 § 11, eff. Oct. 22, 2004 except that prior

to such date the commissioner of buildings and the fire commissioner

may promulgate rules or take other administrative actions to faciliate

the implementation of such provisions.

Subd. (e) par (7) added L.L. 58/1987 § 11

Subd. (j) par (1) subpar b amended L.L. 14/1993 § 1, eff. Feb. 9, 1993.

DERIVATION

Formerly § C26-604.4 added LL 76/1968 § 1. (Generally this section is a recodification of §§ C26-283.0-C26-288.0 from original code, with amendments by LL 50/1942 § 82, LL 126/1952 § 1, LL 43/1957 § 1)

Sub j par 2 amended LL 61/1969 § 14

Sub j par 1 subpar b amended LL 54/1970 § 7

Sub j par 2 amended LL 8/1971 § 1

Sub e amended LL 48/1971 § 1

Sub b amended LL 21/1972 § 3

Sub j par 1 subpar b amended LL 5/1973 § 9

Sub b amended LL 81/1974 § 1

Sub g repealed and added LL 49/1975 § 2

Sub c amended LL 16/1984 § 42

CASE NOTES

¶ 1. The mere claim, on the part of the tenant, that she told the superintendent that there had been drug dealing and loitering around the building, was insufficient evidence of prior criminal activity so as to put defendant landlord on notice and require it to take minimal security measures. However, in a case alleging that the landlord negligently permitted an intruder to gain access to the premises and assault the plaintiff, the fact that the inner door did not have a properly working lock was some evidence of negligence (Admin. Code Sec. 27-371(2)). Thus, the court denied the landlord's motion for summary judgment dismissing the complaint. Ragona v. Hamilton Hall Realty, 251 A.D.2d 391, 674 N.Y.S.2d 113 (App.Div. 2d Dept. 1998).

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-372 Area of refuge.

Areas of refuge shall comply with the following:

(a) Separation. Areas of refuge shall be separated from the area which they serve by construction having at least a two hour fire-resistance rating.

(b) Floor area. Areas of refuge shall provide clear public space or space occupied by the same tenant or owner, adequate in size to hold the occupant load it receives from the floor area it serves as computed by the provision of section 27-367 of article four of this subchapter, in addition to its own occupant load, allowing at least three square feet per person, except that in buildings classified in occupancy group H-2 for patient areas only, the allowance shall be at least thirty square feet per person.

(c) Required exits. Areas of refuge shall be provided with at least one vertical exit. When an area of refuge is located higher than the eleventh floor of a building, the vertical exit shall be supplemented by at least one elevator.

(d) Locking. Doors providing access to areas of refuge shall be kept unlocked at all times when any floor area

served by the area of refuge is occupied.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.5 added LL 76/1968 § 1

Sub d amended LL 39/1972 § 24

Administrative Code of the City of New York

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NYC Administrative Code 27-373

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

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§ 27-373 Horizontal exits.

A horizontal exit to an area of refuge may consist of doors through walls or partitions having at least a two hour fire-resistance rating; of a balcony or exterior vestibule leading around the end of a fire division to another fire area or building; or it may be a bridge or tunnel between two buildings. Horizontal exits shall comply with the following:

(a) Capacity. The capacity of horizontal exits shall be as listed in table 6-1. Only the widths of doors swinging in the direction of exit travel to the area of refuge shall be counted.

(b) Door requirements. Doors shall be swinging, self-closing doors having a fire protection rating of one and one-half hours, except that door in fire divisions having a three hour or four hour fire-resistance rating shall have opening protective as required by table 5-3. Each swinging door shall swing in the direction of exit travel, and when travel is in both directions, as when two areas of refuge serve as areas of refuge for each other, at least two door openings shall be provided, the doors of which shall swing in opposite directions. Signs shall be placed over each door on the side from which egress is made, indicating the exit door.

(c) Balconies, bridges and tunnels. When serving as horizontal exits, balconies, bridges, and tunnels shall

comply with the following:

(1) Their width shall be equal to at least the width of the doors opening on them, but in no case less than three feet eight inches.

(2) They shall be enclosed at each end by doors complying with subdivision (b) of this section.

(3) The floor level at doors shall be the same as that of the building except that the floor level of open balconies or open bridges shall be approximately seven and one-half inches lower.

(4) Where there is a difference in level between the areas connected, the floors of the horizontal exit shall be ramped not more than one inch in ten inches.

(5) Exterior wall openings within thirty feet horizontally of any open bridge or balcony or below any open bridge or balcony shall be provided with opening protectives having a three-quarter hour fire protection rating.

(6) Balconies shall not face or open on yards or courts less than twelve feet wide, and shall be constructed as required for exterior corridors.

(7) Exterior bridges shall be constructed of noncombustible materials. Interior bridges or tunnels shall be constructed of materials providing a two hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.6 added chap 929/1937 § 1

Sub 4 amended LL 98/1939 § 1

Sub 4 amended LL 7/1951 § 1

Repealed and added LL 76/1968 § 1

(formerly § C26-296.0)

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-374

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-374 Supplemental vertical exits.

Enclosed interior stairs, ramps, or escalators may provide access to an area of refuge located on a floor nearer to the street floor, when complying with the following:

(a) Limitation. They shall be supplemental vertical exits serving no other purpose than to connect a floor area with an area of refuge.

(b) Capacity. The capacity of supplemental vertical exits shall be as listed for stairs in table 6-1.

(c) Construction. Supplemental vertical exits shall comply with all of the construction requirements for interior stairs as provided in section 27-375 of this article.

(d) Openings. There shall be no openings in supplemental vertical exit enclosures other than the exit doors and doors leading into the area of refuge.

(e) Identification. Every supplemental vertical exit shall have a sign at the entrance designating its destination reading, "EXIT TO AREA OF REFUGE ON.....FLOOR."

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.7 added LL 76/1968 § 1

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NYC Administrative Code 27-375

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-375 Interior stairs.

Interior stairs shall comply with the following requirements:

(a) Capacity. The capacity of interior stairs shall be as listed in table 6-1.

(b) Width. The width of interior stairs shall be the clear width between walls, grilles, guards, or newel posts. Stair stringers may project into the required width not more than two inches on each side of the stair. No interior stair shall be reduced in width in the direction of exit travel. Interior stairs shall be at least forty-four inches wide except as follows:

(1) Interior stairs may be not less than thirty-six inches wide when serving not more than thirty occupants per stair on any floor in buildings classified in occupancy groups J-1 and J-2 or when serving buildings classified in occupancy group J-3 and exceeding four stories in height, or when serving not more than sixty occupants per stair on any floor in buildings classified in occupancy groups E, B, and D.

(2) Interior stairs may be not less than thirty inches wide when serving mezzanines having an occupant load not

exceeding twenty-five persons or when located in buildings classified in occupancy group J-3 not more than three stories in height. Interior stairs in four story buildings classified in occupancy group J-3 shall be a minimum of thirty-three inches in width.

(c) Headroom. The clear headroom shall be at least seven feet, except that in buildings classified in occupancy groups J-2 and J-3, the minimum clear headroom may be six feet eight inches. Headroom in a flight of stairs shall be measured vertically between two parallel inclined planes, one of which contains the line of the nosing or upper front edge of each tread and extends to its intersection with a landing and the other of which is through any point directly above the first plane that limits the headroom of the stair.

(d) Landings and platforms. Landings and platforms shall be provided at the head and foot of each flight of stairs, except at the head of basement stairs in oneand two-family dwellings, and shall comply with the following:

(1) The minimum width of landings and platforms perpendicular to the direction of travel shall be equal to at least the width of the stairs except that on a straight-run stair, the distance between risers of upper and lower flights at intermediate landings or platforms need not be more than forty-four inches.

(2) The maximum vertical rise of a single flight of stairs between floors, between landings or platforms, or between a floor and a landing or platform shall not exceed eight feet in buildings classified in occupancy groups F and H, and twelve feet in all other occupancy groups. No flight of stairs shall have less than two risers.

(3) Landings and platforms shall be enclosed on sides by walls, grilles or guards at least three feet high.

(e) Risers and treads. Risers and treads shall comply with table 6-4 and with the following:

(1) The sum of two risers plus one tread exclusive of nosing shall be not less than twenty-four nor more than twenty-five and one-half inches.

(2) Riser height and tread width shall be constant in any flight of stairs from story to story.

(3) Winders shall not be permitted in required exit stairs except in one- and two-family dwellings and except as permitted in subdivision l of this section. The width of winder treads when measured eighteen inches from the narrower end shall be at least equal to the width of treads above or below the winding section.

(4) Curving or skewed stairs may be used as exits when the tread and riser relationship is in accordance with table 6-4 when measured at a point eighteen inches in from the narrow end of the tread; and no tread shall be more than three inches narrower or three inches wider at any point than the width established eighteen inches in from the narrow end.

(f) Guards and handrails. Stairs shall have walls, grilles, or guards at the sides and shall have handrails on both sides, except that stairs less than forty-four inches wide may have a handrail on one side only. Handrails shall provide a finger clearance of one and one-half inches, and shall project not more than three and one-half inches into the required stair width.

(1) Stairs more than eighty-eight inches wide shall have intermediate handrails dividing the stairway into widths that maintain the nominal multiples of twenty-two inches, but the widths shall not be greater than eighty-eight inches nor less than forty-four inches.

(2) The height of handrails above the nosing of treads shall be not more than thirty-four inches nor less than thirty inches.

(3) Handrails shall be returned to walls and posts when terminated, except in one- and two-family dwellings.

(4) Handrails shall be designed to support loads in compliance with the requirements of subchapter nine of this chapter.

(5) Handrails in all stairs shall be of materials having a flamespread rating not exceeding one hundred fifty.

(g) Stair doors. Doors providing access to stairs shall comply with the requirements of subdivision (a) of section 27-342 of article five of subchapter five of this chapter and subdivision (e) of section 27-371 of this article. The swing of stair doors shall not block stairs or stair landings, nor shall any door at any point of its swing reduce the effective width of the landing or stair to less than seventy-five percent of the required width of the landing or stair, or to less than the width of the door opening on them. The width of doors from a stair shall not be less than the number of units of exit width required for the capacity of the stair, but in no case shall the door width be less than required by subdivision (e) of section 27-371 of this article.

(h) Stair construction. Risers, treads, stringers, landings, platforms, and guards, exclusive of handrails, shall be built of noncombustible materials except that interior stairs in buildings of construction group II may be built of combustible materials in buildings classified in occupancy group B-2, C, D or E when the buildings are two stories in height or less, and in buildings classified in occupancy group J-2 or J-3 when the buildings are not more than three stories in height, and in the case of J-2 occupancy group, when occupied by not more than three families. Interior stairs shall have solid treads. All risers shall be closed except as otherwise provided in subdivision (i) of this section. When of combustible construction, the soffit of interior stairs shall be fire protected by material having a minimum fire resistive rating of one hour or five-eighths inches gypsum wall board or equivalent, or the space beneath shall be enclosed without openings by material having a one hour fire resistance rating unless permitted to have open risers by subdivision (i) of this section. Where two separate interior stairs are contained within the same enclosure (so called "scissor stairs"), each stair shall be separated from the other by noncombustible construction having a fire resistance rating equal to that required for the stair enclosure. Stairs, platforms, and landings shall be designed to support all loads in compliance with the requirements of subchapter nine of this chapter. Treads and landings shall be built of or surfaced with nonskid materials.

(i) Stair enclosures.

(1) Interior stairs shall be enclosed with construction complying with the requirements of table 3-4 except that:

(a) In buildings three stories or less in height excluding those classified in occupancy group J-1 or J-2 combustible construction group II, the enclosing construction may have a one hour fire resistant rating.

(b) Stairs in buildings or spaces classified in occupancy group J-3 and not more than three stories in height, need not be enclosed except as otherwise required in subdivision (a) of section 27-341 of article five of subchapter five of this chapter. Stairs may have open risers in one family dwellings and group homes.

(c) Unenclosed stairs in buildings classified in assembly occupancy group F may be permitted as provided in subchapter eight of this chapter.

(d) Stairs from floors or mezzanines may be unenclosed, with open or closed risers.

(e) In buildings classified in occupancy group J-2 occupied exclusively by not more than one family on each story without boarders, roomers or lodgers and not more than three stories in height, the enclosing construction may have a one hour fire-resistance rating which may be constructed of combustible material provided that the stair enclosure is protected with an automatic sprinkler system complying with the construction provisions of subchapter seventeen of this chapter.

(f) In buildings classified in occupancy group J-1 or J-2 not more than two stories in height of combustible construction group II, the enclosing construction may have a one hour fire-resistance rating which may be constructed

of combustible material; however, where only one vertical exit is provided the stair enclosure shall be protected throughout with an automatic sprinkler system constructed in accordance with the provisions of subchapter seventeen of this chapter.

(g) Except as provided in subparagraphs (a), (e) and (f) of this paragraph, in all buildings or spaces classified in occupancy group J-1 or J-2, the enclosing construction shall be of masonry or an approved equivalent material having at least a two hour fire-resistant rating.

(2) Access stairs connecting not more than two stories which do not serve as a required exit may be constructed without an enclosure in buildings classified in other than occupancy group H-2. Such stairs shall be additional to and shall not obstruct or interfere with required exit facilities. When the first story below grade is served by an interior, unenclosed access stair, it shall be sprinklered in accordance with the construction provisions of subchapter seventeen of this chapter.

(3) The interior finish of interior stair enclosures shall be in accordance with the requirements of table 5-4.

(4) Stair enclosures shall be vented in accordance with the requirements for shafts in subdivision (d) of section 27-344 of article five of subchapter five of this chapter except that stair enclosures for buildings or spaces classified in occupancy group J-1 or J-2 shall be vented as follows:

a. In occupancy group J-2 buildings three stories in height and with not more than one dwelling unit per story or two stories in height with not more than two dwelling units per story, shall be provided with a skylight at least nine square feet in area, glazed with plain glass with a wire screen over and under and provided with fixed or movable ventilators having a minimum open area of forty square inches.

b. In occupancy group J-1 or J-2 buildings two stories in height with more than two dwelling units per story shall be provided with a skylight of at least twenty square feet in area, glazed with plain glass, with a wire screen over and under and provided with fixed or movable ventilators having a minimum open area of forty square inches.

c. In occupancy group J-1 buildings exceeding two stories in height and in occupancy group J-2 buildings three stories in height with more than one dwelling unit per story or exceeding three stories in height shall be provided with a skylight at least twenty square feet in area, glazed with plain glass with a wire screen over and under and provided with fixed or movable ventilators having a minimum open area of one hundred forty-four square inches. In lieu of the skylight and ventilators a window of equal area may be provided with fixed louvres having a minimum open area of one hundred forty-four square inches installed in or immediately adjacent to the window.

(5) When dwelling units are located over a space classified in occupancy group C or E on the street floor, they shall be provided with a separate enclosed interior stair, or with an exterior stair.

(6) Impact resistance. Stair enclosures serving occupancy group E spaces (office spaces) in high rise buildings constructed pursuant to applications filed on or after July 1, 2006 shall comply with rules to be promulgated by the commissioner establishing minimum impact resistance standards. Such rules shall permit compliance with assemblies comprising approved reinforced construction boards affixed onto stud framing. The commissioner shall promulgate such rules on or before January 1, 2006.

(j) Openings and obstructions to stair enclosures. No piping of any kind, with the exception of piping required or permitted in subchapter seventeen of this code, shall be permitted within a stair enclosure. No openings of any kind, other than windows, fire department access panels, exit doors and openings specifically authorized in reference standard RS 5-18 shall be permitted within a stair enclosure. Pipes required or permitted by such subchapter seventeen and protected in accordance therewith which do not reduce the required clearances of the enclosure may be permitted. Ducts protected in accordance with the requirements of subchapter thirteen of this chapter, which do not reduce the required clearances of the enclosure, may be permitted. In addition, in buildings in occupancy group J-2, which are three stories

or less in height and occupied by not more than two families on each story, a door from an apartment may open directly into a stair, and the door may swing into the apartment.

(k) Roof access. (1) Except as otherwise provided for in paragraphs two and three of this subdivision, in buildings or in building sections more than three stories or forty feet high with roofs having a slope of less than twenty degrees, access to the roof shall be provided by at least one interior stair, except that access to setback roof areas may be through a door or window opening to the roof. Interior stairs extending to roofs shall be enclosed in bulkheads of fire-resistant construction meeting the requirements of subchapter five of this chapter.

(2) In buildings or in building sections classified in occupancy group J-1 or J-2 more than two stories in height, except as otherwise provided for in paragraph three of this subdivision, with roofs having a slope of fifteen degrees or less all interior stairs, except those terminating at a level of a setback roof, shall extend to the roof and shall be enclosed in bulkheads of fire-resistive construction meeting the requirements of subchapter five of this chapter. Stairs terminating at the level of a setback shall provide access to the setback roof areas through a door except where the setback is less than four feet in width, measured from the inside of the parapet wall, and less than ten feet in length.

(3) In buildings or in building sections classified in occupancy group J-1 or J-2 two stories in height and in occupancy group J-2 three stories in height with not more than one dwelling unit per story with roofs having a slope of fifteen degrees or less, access to the roof shall be provided through a scuttle at least twenty-one inches in width and twenty-eight inches in length and shall comply with subdivision (c) of section 27-338 of article four of subchapter five of this chapter. Scuttles shall be located within each stair enclosure with a stationary iron ladder leading thereto.

(l) Spiral stairs. Spiral stairs may serve as access stairs between two floors or levels in accordance with the provisions of paragraph two of subdivision (i) of this section. Such stairs may not serve as required exits, except that unenclosed spiral stairs when built of noncombustible materials and having a tread length of at least thirty inches may serve as exits from mezzanines or balconies having an occupant load not exceeding twenty-five persons.

[See tabular material in printed version]

Notes for Table 6-4:

1 Treads may be undercut a distance equal to the nosing. A nosing shall not be required when tread width is eleven inches or wider.

2 The proportions and dimensions of treads and risers may be adjusted in buildings classified in occupancy group G to suit the age of occupants, subject to the approval of the commissioner.

HISTORICAL NOTE

Subd. (i) par (6) added L.L. 26/2004 § 12, eff. Oct. 22, 2004 except that

prior to such date the commissioner of buildings and the fire

commissioner may promulgate rules or take other administrative actions

to faciliate the implementation of such provisions.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.8 added chap 929/1937 § 1

Sub h par 2 subpar b amended LL 70/1940 § 1

Sub a par 2 amended LL 6/1951 § 1

Sub a par 2 amended LL 153/1951 § 1

Sub h par 2 subpar a amended LL 62/1954 § 1

Sub a par 2 amended LL 111/1955 § 1

Sub c repealed and added LL 111/1955 § 2

Sub a par 2 open par, items a, b amended LL 25/1961 § 1

Sub k par 3 amended LL 32/1965 § 1

Repealed and added LL 76/1968 § 1

(formerly § C26-292.0)

Sub i par 1 amended LL 61/1969 § 15

Sub i par 4 amended LL 61/1969 § 16

Sub k amended LL 61/1969 § 17

Sub b amended LL 54/1970 § 8

Sub i par 2 amended LL 54/1970 § 9

Sub h amended LL 5/1971 § 3

Sub i par 1 subpar b amended LL 5/1971 § 4

Sub i par 1 subpars e, f repealed and added LL 50/1971 § 1

Sub i par 1 subpar g added LL 50/1971 § 2

Sub g amended LL 39/1972 § 25

Sub b pars 1, 2 amended LL 28/1975 § 4

Sub i par 1 subpar b amended LL 28/1975 § 5

Sub i par 1 subpar g amended LL 8/1976 § 1

Sub j amended LL 84/1979 § 2

Sub j amended LL 31/1981 § 1

CASE NOTES FROM FORMER SECTION

¶ 1. A two-story building, erected in 1921, with stores on the first floor and a hall on the second floor which was leased as a meeting and club room and for conducting social activities was a public building within the meaning of Code § C26-235.0 and hand rails were required on both sides of the exit stairs under Code § C26-292.0. Thus, where

there was a hand rail on only one side of the stairs, the building owner was liable for the death of plaintiff's intestate who fell while going down the stairs as a result of the absent railing.-Courtney v. Abro Hardware Corp., 1 N.Y. 2d 717, 134 N.E. 2d 680 [1956], aff'g without opinion 286 App. Div. 261, 142 N.Y.S. 2d 790 [1955].

¶ 2. Five carpeted steps leading from the main salon in defendant's store to a fitting room were not "required exit stairs" within the meaning of this section. Hence, even though there were no hand railings along side the steps, inasmuch as the steps were not defective, the store owner was not liable for injuries received by a fall on the steps.-Union Bank and Trust Co. of Los Angeles v. Hattie Carnegie, Inc., 1 App. Div. 2d 199, 149 N.Y.S. 2d 122 [1956].

¶ 3. An employee of the lessee of premises (not constituting a tenant-factory as defined in the Labor Law), where the lessee had undertaken to keep the building in good repair, may not recover from the landlord, out of possession and control of the premises, for injuries sustained in a fall on an allegedly defective stairway.-Carlson v. Costan Corp., 6 A.D. 2d 870, 177 N.Y.S. 2d 585 [1958], aff'd 9 N.Y. 2d 705, 213 N.Y.S. 2d 86, 173 N.E. 2d 806 [1961].

¶ 4. Where a contractor, in building a church, installed a handrail on the exterior stairs which terminated at the bottom step, this rail was not "continuous between landings", and the contractor was liable to a person who sustained a fall on the bottom step.-Crowley v. Veit & Co., 141 (113) N.Y.L.J. (6-11-59) 14, Col. 1 T.

CASE NOTES

¶ 1. This section imposes specific obligations on owners of buildings as to minimum handrail clearance, which could result in liability to third parties whether or not the owner had actual notice of an alleged defect and even if the premises are leased to another who has the responsibility to maintain the premises pursuant to the lease. Guzman v. Haven Plaza Hous., 69 NY2d 559, [1987].

¶ 2. Exterior stairs used as exits in lieu of interior stairs pursuant to Ad Cd §§ 27-366, 27-376 need not meet the handrail requirements for interior stairs of Ad Cd § 27-375(f) unless it is established such exterior stairs and not other exterior stairs are being used to satisfy the requirements. Taylor v. City of New York, 150 Misc. 2d 528 [1991] reversing 144 Misc. 2d 1029.

¶ 3. Plaintiff sought recovery for injuries allegedly sustained when she tripped and fell on cement stairs leading from the defendants' one family home. In the absence of proof that the defendant homeowner had any notice of a defective condition, the owner, who engaged an independent contractor to do work, was not liable for the contractor's allegedly negligent performance, even though the stairway in question was not constructed in accordance with code requirements regardng handrails. Bula v. Scalero, 196 A.D.2d 521 , 601 N.Y.S.2d 171 (2nd Dept. 1993).

¶ 4. Where an injured plaintiff alleges that a fall occurred because of a crack in the steps, and does not show that the lack of a handrail was the cause of the accident, plaintiff cannot use Section 27-375 to establish a case against an out-of-possession landlord. Deebs v. Rich-Mar Realty Assocs., 248 A.D.2d 185, 670 N.Y.S.2d 16 (App.Div. 1st Dept. 1998).

¶ 5.The statute (with certain exceptions) requires that interior stairs have a handrail. In one case, a vestibule area was indoors but led to a door which in turn provided an exit to the outdoors. The vestibule was covered by a roof and was enclosed by walls and was protected from the elements. The court held that a stairway located in the vestibule was an interior stairway for purposes of the statute. Eisenpresser v. Staples, Inc., N.Y.L.J., Apr. 14, 1999, page 27, col. 2 (Sup.Ct. New York Co.).

¶ 6. Where a lease gives the landlord the right to enter the demised premises for the purpose of conducting an inspection and making repairs, and the absence of a handrail on a stairway constitutes a statutory violation, that violation may give rise to liability on the part of the landlord to a person injured by reason of the defect. Nameny v. East New York Savings Bank, 267 A.D.2d 108, 699 N.Y.S.2d 412 (1st Dept. 1999).

¶ 7. In one case, a lease called for the landlord to perform "structural repairs and replacements." Although the lease did not specifically mention handrails on stairs, the court held that the landlord was required to install handrails. Thus, a plaintiff who fell allegedly because of the lack of handrails could maintain a cause of action against the landlord, based on the lease provision and based upon Admin. Code Sec. 27-375, which imposed the handrails requirement. Cortes v. 1515 Williamsbridge Assocs., 295 A.D.2d 188, 743 N.Y.S.2d 476 (1st Dept. 2002).

¶ 8. In one case, the City leased space to the Port Authority, which subleased it to Halmar Equities, which in turn sub-sub-leased it to DJ Air Services. An employee of DJ was directed to take boxes down from a high shelf in a warehouse. To do so, he stood on a metal crate that was then raised by a forklift to the shelf, about 10 feet off the ground. While standing in the crate on the forklift, the employee began removing boxes from the shelf and loading them onto the crate. To retrieve boxes, he put his foot on the shelf and leaned forward. While doing so, plaintiff's foot fell through the open space between the metal bars on the shelving unit, causing him to fall to the ground. According to plaintiff, the boxes should have been on a wooden pallet, and, since the warehouse was dark, he did not see that the pallets were missing. The court held that the lessor was not responsible in negligence for conditions upon land after the transfer of possession and control. Even though the lease contained the right of re-entry for the purpose of inspecting the premises, such right of re-entry was not alone a basis for liability, and liability had to be based on a significant structural or design defect that was contrary to a specific safety provision. Section 27-375 states that adequate means for producing artificial light by electricity must be provided in every room or floor space in every building. Where there is no evidence that the lessor failed to provide adequate means of lighting, and the accident allegedly was due to light bulbs being out, this was a question of routine maintenance, which was the responsibility of the lessee, not the lessor. Thus, the statute did not form a basis for plaintiff to recovery against the lessor. Erkocaj v. Port Authority of New York and New Jersey, 2 Misc.2d 1001(A), 2004 WL 354213 (Sup.Ct. Queens Co.).

¶ 9. The statute imposes a nondelegatable duty upon building owners to maintain their premises in a safe condition, but did not to a subcontractor/site manager. Weiss v. City of New York, 16 A.D.3d 680, 792 N.Y.S.2d 530 (2d Dept. 2005).

¶ 10. A ladder which provided access between the first floor of the building and the basement did not qualify as "interior stairs," because it did not serve as a required exit from the building. Weiss v. City of New York, 16 A.D.3d 680, 792 N.Y.S.2d 530 (2d Dept. 2005).

¶ 11. See Mansfield v. Dolcemascolo, 34 A.D.3d 763, 826 N.Y.S.2d 115 (2d Dept. 2006), note 4 under Admin. Code § 27-232.

¶ 12. Stairs do not qualify as "interior stairs" within the meaning of the statute, where they do not serve as a required exit from the building. Schwartz v. Hersh, 50 AD3d 1011, 856 NYS2d 640 (App. Div. 2nd Dept. 2008.).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-376

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-376 Exterior stairs.

Exterior stairs may be used as exits in lieu of interior stairs provided they comply with all of the requirements for interior stairs, except enclosure, and except as modified below:

(a) Capacity. The capacity of exterior stairs shall be as listed in table 6-1.

(b) Height limitation. No exterior stair shall exceed seventy-five feet or six stories in height.

(c) Construction. Exterior stairs shall be constructed entirely of noncombustible materials, except that in buildings classified in occupancy groups other than G, F, or H, of construction group II, located outside the fire districts, exterior stairs may be built of combustible materials when the buildings are two stories or thirty feet in height or less and have an occupant load not exceeding forty persons per floor above the street below. Exterior stairs shall be roofed, and shall be protected along their outer sides as required for exterior corridors in subdivision (f) of section 27-369 of this article. Treads, landings, and platforms shall be solid and unperforated. Risers may be partially open to permit water and snow to drain.

(d) Opening protective. In buildings four stories or fifty feet in height or more, there shall be no openings in the building walls adjoining exterior stairs other than one-quarter hour self-closing swinging fire doors, and no openings nearer than ten feet to the stair (measured horizontally) that are not provided with three-quarter hour opening protectives.

(e) Location. No exterior stair shall be located nearer than ten feet to an interior lot line.

(f) Discharge. Exterior stairs shall extend continuously to grade.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.9 added LL 76/1968 § 1

CASE NOTES

¶ 1. Exterior stairs used as exits in lieu of interior stairs pursuant to Ad Cd §§ 27-366, 27-376 need not meet the handrail requirements for interior stairs of Ad Cd § 27-375(f) unless it is established such exterior stairs and not other exterior stairs are being used to satisfy the requirements. Taylor v. City of New York, 150 Misc. 2d 528 [1991] reversing 144 Misc. 2d 1029.

¶ 2. In one case, the plaintiff fell on ice while ascending an outside staircase, which staircase consisted of three steps leading from a path to a platform. The platform began as the fourth step of the staircase and ended at the door which led to the interior of the building. At one end of the staircase was a handrail, and the other side of the staircase was framed by a fence. Section 27-376 states that an "exterior" staircase may be used as an exit in lieu of "interior" stairs, provided that the staircase meets the same requirements as those applicable for interior stairs. Section 27-375, which covers interior stairs, requires that if the stairway is more than 88 inches wide, it must have an intermediate handrail dividing the stairway. The plaintiff argued that this was an "exterior" stairway within the meaning of the statute and that the failure to have the intermediate handrail constituted negligence. The court, however, held that this was not an exterior stairway within the meaning of the law. The law covers a stairway which constitutes a means of egress from the interior to the exterior, while the instant stairway was simply a means of egress from an area outside the building to the street. In other words, if the stairs do not constitute an "exit," they will not come under the law, the court said. Gaston v. New York City Housing Auth., 258 A.D.2d 220, 695 N.Y.S.2d 83 (1st Dept. 1999).

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NYC Administrative Code 27-376.1

Administrative Code of the City of New York

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-376.1 Fire tower.

Fire towers may be used as exits in lieu of interior stairs provided they comply with all of the requirements for interior stairs, except as modified below.

(a) The enclosing walls of fire towers shall be of incombustible materials or assemblies having a fire-resistance rating of at least four hours. Such walls shall be without openings, except for doors serving as means of egress.

(b) At each story served by a fire tower, access to the stairways of such fire tower shall be provided through outside balconies or fireproof vestibules. Such balconies or vestibules shall be at least three feet eight inches in width and shall have unpierced floors of incombustible materials and shall be provided with substantial guard railings at least four feet high, without any openings greater than five inches in width.

(c) Such balconies or vestibules of fire towers shall be level with the floors of the structure and the platforms of the stairs connected by such balconies. Such balconies or vestibules shall be separated from the structure and the stairs by self-closing swinging doors with a one and one-half hour fire protection rating, capable of being opened from both sides without the use of a key or other unlocking device.

(d) Balconies or vestibules of fire towers shall open on a street or yard, or on a court open vertically to the sky for its full height, having a minimum net area of one hundred five square feet and a minimum dimension of seven feet. The opening from the vestibule to the street, yard or court shall have a minimum area of eighteen square feet and a minimum dimension of two feet six inches. It shall be unlawful to leave openings in the court walls surrounding an interior fire tower, other than the openings from the vestibules, within fifteen feet of the balcony, except that self-closing windows with a three-quarter hour fire protection rating may be used if such windows are at least ten feet from the balcony, provided that the area of the court is at least twelve feet by twenty-four feet.

(e) Fire towers shall terminate at grade level and shall exit directly to the street independently of corridors serving other stairways, except when the fire tower terminates in the ground floor corridor outside of the inner vestibule and within ten feet of the building line.

(f) Fire tower stairs shall comply in all other respects with the applicable requirements of section 27-375 of this code.

HISTORICAL NOTE

Section added L.L. 26/2004 § 13, eff. Oct. 22, 2004 except that prior to

such date the commissioner of buildings and the fire commissioner may

promulgate rules or take other administrative actions to faciliate the

implementation of such provisions.

NYC Administrative Code 27-377

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-377 Ramps.

Interior or exterior ramps may be used as exits in lieu of interior or exterior stairs provided they comply with the applicable requirements for interior stairs in section 27-375 of this article or exterior stairs in section, 27-376 of this article respectively, and with the following:

(a) Capacity. The capacity of ramps shall be as listed in table 6-1.

(b) Maximum grade. Ramps shall not have a slope steeper than 1 in 8, except that in buildings classified in occupancy group H the slope shall not exceed 1 in 12, and except as provided in subchapter eight of this chapter for places of assembly.

(c) Design.

(1) CHANGES IN DIRECTION. Ramps shall be straight, with changes in direction being made at level platforms or landings, except that ramps having a slope not greater than one in twelve at any place, may be curved.

(2) LENGTH. The sloping portion of ramps shall be at least three feet but not more than thirty feet long between

level platforms or landings.

(3) PLATFORMS. Level platforms or landings, at least as wide as the ramp, shall be provided at the bottom, at intermediate levels where required, and at the top of all ramps. Level platforms shall be provided on each side of door openings into or from ramps having a minimum length in the direction of exit travel of three feet, and when a door swings on the platform or landing a minimum length of five feet.

(4) DOORS. Door openings into or from ramps shall comply with the requirements for stairs in subdivision (g) of section 27-375 of this article. No door shall swing over the sloping portion of a ramp.

(5) GUARDS AND RAILINGS. Guards and railings of ramps shall comply with the applicable requirements of subdivision (f) of section 27-375 of this article except that only ramps having a slope steeper than one in twelve need comply with the requirements for handrails and intermediate handrails shall not be required.

(6) SURFACE. Interior ramps exceeding a slope of one in ten and all exterior ramps shall be provided with nonslip surfaces.

(7) Ramps for people having physical disabilities shall additionally comply with the requirements of reference standard RS 4-6.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (c) par (7) added L.L. 58/1987 § 12

DERIVATION

Formerly § C26-604.10 added LL 76/1968 § 1

CASE NOTES

¶ 1. Where a slip-and-fall accident occurred on a ramp which led to a deck containing a large refrigeration unit and office space, §27-377 did not apply, since the ramp was not being used as an exit. Parasconda v. Seaport Redevelopment Corp., N.Y.L.J., Jan. 6, 2003, page 27, col. 4 (Sup.Ct. Kings Co.).

¶ 2. In one negligence case, where plaintiff allegedly was injured due to an improperly designed ramp (ramp excessively sloped and lacked handrails), the court held that a claim based on the statute had to be timely pleaded. Where plaintiff sought to add a violation of § 27-377 as a new theory of liability, by way of a supplemental bill of particulars served without leave of court, after the note of issue had been filed, the court held that it was too late to assert the new theory. Medina v. Sears, Roebuck & Co., 839 N.Y.S.2d 162 (2d Dept. 2007).

NYC Administrative Code 27-378

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-378 Escalators.

Escalators may be used as exits in lieu of interior stairs provided they comply with all of the requirements of subchapter eighteen of this chapter and with the applicable requirements for enclosed interior stairs, except as modified below:

(a) Capacity. The capacity of escalators as listed in table 6-1 shall be based on the following:

Minimum Width (in.) At:			
Step	Balustrade1	Enclosure2	Units of Exit Width
24	32	52	11/2
40	48	68	21/2

Notes for Table:

[1] Measured twenty-seven inches above front edge of tread.

[2] Clear width above handrails.

(b) Acceptable exits. Only escalators moving in the direction of exit travel may be credited as exits, except that any escalator may be credited when it is connected to an automatic fire detection system that will cause it to stop simultaneously with the detection of fire. The detection system shall comply with the construction provisions of subchapter seventeen of this chapter. Where an escalator provides exit facilities from only one floor of a building, the automatic detection system shall be located on that floor. Where escalators provide exit facilities from more than one floor, the detection system shall be located on all floors so served, and shall cause escalators on all floors of the section of the building that they serve to stop operating. The stopping mechanism shall operate to bring the escalator to a gradual, rather than an abrupt stop.

(c) Escalators not used as exits. Escalators that do not serve as exits, and that connect more than two stories of a building, shall be completely enclosed with noncombustible construction having a three-quarter hour fire-resistance rating, except that in buildings completely protected by an automatic sprinkler system complying with the construction requirements of subchapter seventeen of this chapter, such escalators may, alternatively, be protected by one of the methods specified in subchapter eighteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.11 added LL 76/1968 § 1

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-379 Moving walkways.

Pedestrian walkways consisting of conveyor belts shall be considered as exit passageways if level, or as ramps if inclined, and shall be acceptable as exits if they comply with the applicable requirements for exit passageways or ramps, and with the following:

(a) Capacity. The capacity shall be as listed under exit passageways or ramps, as the case may be, in table 6-1.

(b) Acceptable exits. Only walkways moving in the direction of exit travel may be credited as exits, except that any moving walkway may be credited when it is connected to an automatic fire detection system that will cause it to stop simultaneously with the detection of fire on the floor it serves. Such detection system shall comply with the construction provisions of subchapter seventeen of this chapter.

(c) Design and construction. Walkways shall comply with the requirements of subchapter eighteen of this chapter.

(d) Enclosure. Walkways that do not serve as exits, but are inclined so as to require an opening in any floor,

shall be enclosed as required for escalators in subdivision (c) of section 27-378 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.12 added LL 76/1968 § 1

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NYC Administrative Code 27-380

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ARTICLE 5 ACCESS REQUIREMENTS AND EXIT TYPES

§ 27-380 Fire escapes.

Fire escapes constructed on existing buildings when altered or as a second means of egress for group homes as permitted by section 27-368 of this article shall comply with the following:

(a) Capacity. The capacity of fire escapes shall be as listed in table 6-1 for stairs.

(b) Stairs. The minimum width of fire escape stairs shall be twentytwo inches. Treads shall have a minimum width of eight inches, exclusive of a required one inch nosing. The maximum height of risers shall be eight inches. No flight of stairs shall exceed twelve feet in height between landings.

(c) Landings. Landings shall be provided at each story served by fire escapes. The minimum width of landings shall be three feet, and the minimum length shall be four feet six inches. Floor openings in landings shall be at least twenty-two inches by twenty-eight inches.

(d) Handrails and guards. Handrails having a minimum height of thirty-two inches above the tread nosing shall be provided on both sides of stairs, and guards having a minimum height of thirty-six inches shall be provided on all

open sides of landings, openings in guards shall be of such dimensions as to prevent the passage of a five inch dia. ball.

(e) Construction. Fire escapes shall be constructed of noncombustible materials adequately protected against deterioration by corrosion or other effects of exposure to the weather, and shall be designed to comply with the requirements of subchapter nine of this chapter.

(f) Access. Access to fire escapes shall be by doors or windows having a minimum clear opening of twenty-four inches in width and thirty inches in height. Such doors or windows shall have a fire protection rating of three-quarters of an hour except in buildings classified in occupancy group J-2.

(g) Discharge. The top landing of fire escapes shall be provided with a stair or gooseneck ladder leading to the roof, except that this requirement shall not apply to buildings having a roof pitch of more than twenty degrees. The lowest landing of fire escapes shall be not more than sixteen feet above grade and shall be provided with a stair to grade which may be counterbalanced.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-604.13 added LL 76/1968 § 1. (Generally covered by former §§ C26-298.0, -298.1, -299.0, -300.0 from original code amended LL 82/1941 § 1)

Amended LL 28/1975 § 6

CASE NOTES

¶ 1. Following her fall from a fire escape landing outside an apartment house building plaintiff started a personal injury action alleging that the landing was dangerous and defective because it lacked safety railings or other protective devices. Landlord's motion for summary judgment based on the fact that building was in compliance with laws particularly Administrative Code §27-380 was denied because owners of land have a duty under common law to maintain a safe premises. Landlord should keep fire escapes safe for tenant's use including using fire escapes to clean windows. Kellman v. 45 Tiemann Assocs., 213 AD2d 151 affirmed 87 N.Y.2d 871, 638 N.Y.S.2d 937 [1996].

¶ 2. Kellman v. 45 Tiemann Associates, 87 N.Y.2d 871, 638 N.Y.S.2d 937 (1995). The landlord's compliance with this section does not automatically entitle a landlord to dismissal of a negligence action arising out of use of fire escape landings.

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NYC Administrative Code 27-381

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 6 EXIT LIGHTING

§ 27-381 Requirements.

Corridors and exits shall be provided with artificial lighting facilities, except as otherwise permitted by the provisions of subchapter twelve of this chapter, in accordance with the following:

(a) Illumination of at least two foot candles measured at the floor level shall be maintained continuously, during occupancy, in exits and their access facilities for their full length, at changes in direction in and intersections of corridors, balconies, exit passageways, stairs, ramps, escalators, bridges, tunnels, landings, and platforms, and as provided in subchapter eight of this chapter for places of assembly, except that this requirement shall not apply to dwelling units.

(b) In buildings classified in occupancy groups B-1 and B-2, exit lighting need only be maintained when a section of floor is occupied.

(c) Illumination shall be so arranged that the failure of any one light shall not leave any area in darkness.

(d) Phosphorescent materials shall not be used as a method of providing illumination, nor shall battery operated

electric lights or portable lamps or lanterns be used as primary sources of lighting.

(e) (1) Buildings and existing buildings containing an F-4 place of assembly with an occupant load of three hundred or more persons shall install emergency lighting in each vertical exit serving the floor on which the place of assembly is located so as to provide a continuously lighted passage to the exterior of the building. Such lighting shall be connected to an emergency power source or to storage battery equipment meeting the requirements of the commissioner.

(2) Existing buildings required to comply with this subdivision shall install the emergency lighting on or before April first, nineteen hundred eighty-seven.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (e) par (1) amended L.L. 59/1996 § 94, eff. Aug. 8, 1996

DERIVATION

Formerly § C26-605.1 added LL 76/1968 § 1

Sub d amended LL 39/1972 § 27

Sub a amended LL 16/1984 § 43

Sub e added LL 16/1984 § 44

CASE NOTES FROM FORMER SECTION

¶ 1. Section C26-280.0, which requires lighting of means of egress, did not apply per se to a building owned by an educational institution which was erected in 1929 (§ C26-272.0). However, since the building was used for instruction and was not occupied by the defendant for such purpose until after January 1, 1938, it must be maintained in compliance with Article 13 (§ C26-715.0). The structure was not exempt where defendant's occupancy was not exclusive; at the time of the accident the building was also occupied by Brooklyn Paramount Theater. Pursuant to § C26-719.0 and § C26-743.0 defendant was required to provide artificial light for the stairs upon which plaintiff fell. In any event, lighting was required by § 159 of the New York City Code of Ordinances which was still applicable to buildings erected prior to 1938 (Administrative Code § 982-1.0).-Abrash v. Long Island University, 22 App. Div. 2d 940, 255 N.Y.S. 2d 930 [1964].

¶ 2. Where plaintiff tripped when going toward her seat and was injured as she walked down a step located near a door, the jury in considering the common law elements of liability was bound to consider whether defendant has breached its duty under this section to equip the area where plaintiff fell "with artificial lighting facilities".-Schneider v. Carnegie Hall Corp., 54 A.D. 2d 898, 387 N.Y.S. 2d 994 [1976].

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NYC Administrative Code 27-382

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 6 EXIT LIGHTING

§ 27-382 Power source.

(a) Where a total of more than four lights is required, exit lighting shall be connected to an emergency power source or to storage battery equipment meeting the requirements of the commissioner, provided, however, that in existing buildings, the exit lighting may be on circuits that are separate from the general lighting and power circuits, taken off ahead of the main switch.

(b) Existing high rise buildings classified in occupancy group C, D or H and existing buildings classified in occupancy group E, G or J-1 (except for "residential hotels," as such term is defined by the commissioner pursuant to rules and regulations) shall comply with the requirements of this section on or before April first, nineteen hundred eighty-seven.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 59/1996 § 95, eff. Aug. 8, 1996

DERIVATION

Formerly § C26-605.2 added LL 76/1968 § 1

Amended LL 16/1984 § 45

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-383

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-383 Requirements.

(a) Exit signs. Except in occupancy groups J-2 and J-3, the location of every exit on every floor and every opening from a room classified in occupancy group J-1 and containing cubicles shall be clearly indicated by exit signs. Such signs shall be placed at an angle with the exit opening if such placement is required for the signs to serve their purpose. In long corridors, in open floor areas, and in all other situations where the location of the exit may not be readily visible or understood, directional signs shall be provided to serve as guides from all portions of the corridor or floor.

(b) Exit path markings in high rise office buildings and in occupancy group E high rise buildings. On and after July 1, 2006 all high rise office buildings and all high rise buildings classified in occupancy group E shall have exit path markings conforming to this subdivision. This provision shall be retroactive and shall apply to buildings constructed on and after such date and to buildings in existence on such date. All exit path markings required herein shall be of an approved photoluminescent material. The markings shall be washable, non-toxic, non-radioactive, and if subjected to fire must be self extinguishing when the flame is removed.

(1) All doors opening to corridors, to an exit, or to an exit passageway, shall be marked with the word "exit".

(2) Within exit stairs, horizontal extensions in exit stairs, horizontal exits, supplemental vertical exits and exit passageways, except within street level lobbies, there shall be directional markings.

(3) Required markings for exit paths shall comply with the technical standards for installation and placement to be set forth in a reference standard. Such reference standard shall be designated RS 6-1 and shall be adopted on or before January 1, 2006.

HISTORICAL NOTE

Section amended L.L. 26/2004 § 15, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-606.1 added LL 76/1968 § 1

Amended LL 61/1969 § 18

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-383.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-383.1 Additional requirements for high rise office buildings and occupancy group E high rise buildings.

In high rise office buildings and in occupancy group E high rise buildings:

(a) Illuminated exit signs complying with section 27-386 of this subchapter shall be placed in stairwells with horizontal extensions to indicate the transition from vertical to horizontal direction and at turns along the horizontal path.

(b) A supplementary sign complying with sections 27-394 and 27-395 of this subchapter, except that the lettering and numerals shall be at least one inch high, indicating the location of a recessed re-entry door, shall be securely attached on the wall of the landing that faces the evacuee on the stairs.

(c) In stairs where there is no entry or exiting from such stair for more than four floors, a sign complying with sections 27-394 and 27-395, except that the lettering and numerals shall be at least one inch high, shall be securely attached at the beginning of the descent into such portion of the stair on the wall of the landing that faces the evacuee on the stairs stating the location of the next re-entry or exiting floor. On each floor within such portion of the stair a sign complying with sections 27-392 and 27-395 shall be securely attached to the wall of the landing that faces the evacuee

on the stairs approximately five feet above the floor indicating the floor number.

(d) Signs shall be readily visible from the egress direction.

(e) High rise office buildings and high rise buildings classified in occupancy group E in existence on the effective date of this section shall comply with this section on or before July 1, 2007. For the purpose of this section, a high rise building shall be deemed to be in existence on the effective date of this section if on such effective date it is complete or under construction or where an application for approval of plans was filed with the department prior to such effective date and construction commenced within two years after such effective date.

HISTORICAL NOTE

Section added L.L. 26/2004 § 16, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-384

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-384 Power source.

(a) Where a total of more than four exit and/or directional signs is required, the signs shall be connected to an emergency power source or to storage battery equipment meeting the requirements of the commissioner, provided, however, that in existing buildings, the signs may be on circuits that are separate from the general lighting and power circuits, taken off ahead of the main switch.

(b) Existing high rise buildings classified in occupancy group C, D or H and existing buildings classified in occupancy group E, G or J-1 (except for "residential hotels," as such term is defined by the commissioner pursuant to rules and regulations) shall comply with the requirements of this section on or before April first, nineteen hundred eighty-seven.

(c) Notwithstanding the foregoing, in the existing buildings required to comply with subdivision (b) of this section, all such existing exit and/or directional signs on circuits taken off ahead of the main switch shall be connected to an emergency power source or to storage battery equipment meeting the requirements of the commissioner on or before July 1, 2007.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (a) amended L.L. 59/1996 § 96, eff. Aug. 8, 1996

Subd. (c) added L.L. 26/2004 § 17, eff. Oct. 22, 2004 except that prior to such date the commissioner of buildings and the fire commissioner may promulgate rules or take other administrative actions to faciliate the implementation of such provisions.

DERIVATION

Formerly § C26-606.2 added LL 76/1968 § 1

Amended LL 16/1984 § 46

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-385

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-385 Exit sign design.

Exit signs shall read only "exit" and shall be of the externally lighted, internally lighted, or electroluminescent type, except that they may be nonilluminated in buildings not provided with artificial lighting.

(a) The artificial light source on externally lighted signs shall provide a red light, either by the use of an incandescent colored bulb or other visible red light source, so as to provide at least twenty-five foot candles on the exposed face of the sign. Visibility of the sign shall not be obscured by the location of the light source.

(b) For internally lighted signs, the average initial brightness of the letters shall be at least twenty-five ft. lamberts, and where an illuminated background is used, its average initial brightness shall be at least two hundred fifty ft. lamberts. The light source shall not be modified or changed nor shall lamp life multipliers be used so as to reduce these brightness levels.

(c) The letters of exit signs shall be red. The background of externally lighted signs shall be white. The background of internally lighted signs shall be either stenciled metal with a light gray or white color, or translucent frosted, opal glass, slow-burning plastic, or the plastic edge-glow type with white plastic separators. The letters for

internally lighted signs shall be translucent red.

(d) The letters shall be block lettering at least four and one-half inches high with nine-sixteenths inch strokes, except in buildings and spaces classified in occupancy group F and J-1, where they shall be at least eight inches high with the strokes at least three-quarters of an inch wide.

(e) In locations where breakage may occur, exit signs shall be of shock resistant materials, or shall otherwise be protected against breakage.

(f) Except for buildings not provided with artificial lighting and buildings which maintain one or more auxiliary systems for emergency exit lighting in the event of a public utility failure, there shall be either (1) an illuminated exit sign with the background thereon made of an approved phosphorescent material or (2) a supplemental exit sign made of an approved phosphorescent material with an opaque text and placed adjacent to or as close as possible to such illuminated sign. The phosphorescent material after exposure to normal lighting conditions shall be capable of remaining visible in total darkness for a period of at least eight hours. The signs shall be washable, non-toxic, nonradioactive and if subjected to fire must be self-extinguishing when the flame is removed.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-606.3 added LL 76/1968 § 1

Sub d amended LL 61/1969 § 19

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-386

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-386 Directional sign design.

Directional exit signs shall comply with all of the requirements for exit signs in section 27-385 of this article, and shall read "EXIT" with a horizontal arrow or arrows indicating the direction to the exit or exits. However, when the arrow is below the letters, the letters may be three and three-eighths inches high and nine-sixteenths inch strokes, except in buildings and spaces classified in occupancy group F where they shall be at least five inches high with nine-sixteenths inch strokes. The arrow or arrows shall be red.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-606.4 added LL 76/1968 § 1

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

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NYC Administrative Code 27-387

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 7 EXIT SIGNS AND OTHER MARKINGS*32

§ 27-387 False exits.

Any door, passageway, stair, or other means of communication that is not an exit or that is not a way to an exit, but is so located as to be mistaken for an exit, shall be identified with a sign reading "NOT AN EXIT", shall be identified by a sign indicating its use or purpose or shall be provided with a directional exit sign.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-606.5 added LL 76/1968 § 1

FOOTNOTES

32

[Footnote 32]: * Article 7 heading amended L.L. 26/2004 § 14, eff. Oct. 22, 2004.

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NYC Administrative Code 27-388

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 8 EXIT SIGNS FOR EXISTING BUILDINGS

§ 27-388 Retroactive provisions.

Except as otherwise provided, the provisions of this subchapter are not retroactive except that the provisions of this article and article nine of subchapter six of this chapter for certain existing office buildings are retroactive. Signs required by this article must be installed no later than March sixth, nineteen hundred sixty-nine. Where auxiliary systems for emergency exit lighting are to be provided, the installation must commence no later than May sixth, nineteen hundred sixty-nine.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-607.1 added LL 76/1968 § 1

Amended LL 39/1972 § 28

Amended LL 5/1973 § 10

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-389

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 8 EXIT SIGNS FOR EXISTING BUILDINGS

§ 27-389 Designation of required means of egress.

(a) Except for spaces classified in occupancy J-2 and J-3, the location of each required means of egress on every floor of every structure shall be clearly indicated by exit signs. Such signs shall be placed at an angle with the exit doorway if such placement shall be required for such signs to serve their purpose adequately. These signs shall be of an approved phosphorescent material, which after exposure to normal lighting conditions shall be capable of remaining visible in total darkness for a period of at least eight hours. They shall also be washable, non-toxic, non-radioactive, and if subjected to fire must be self-extinguishing when the flame is removed. Except for illuminated signs, these signs shall have a phosphorescent background and opaque text. Where means of egress were required to be indicated by an illuminated sign, there shall be either (1) an illuminated exit sign with the lettering thereon made of the approved phosphorescent material, or (2) a supplemental exit sign made of the approved phosphorescent material with an opaque text, and placed adjacent to or as close as possible to such illuminated sign.

(b) Except for spaces classified in occupancy groups J-2 and J-3, in long corridors, in open floor areas and in all other situations where the location of the means of egress may not be readily discernible or understood by the occupants, directional signs shall be provided and maintained to serve as guides from all portions of the floor or corridor. These signs shall be of an approved phosphorescent material which after exposure to normal lighting

conditions shall be capable of remaining visible in total darkness for a period of at least eight hours. They shall also be washable, non-toxic, non-radioactive, and if subjected to fire must be self-extinguishing when the flame is removed. Except for illuminated signs these signs shall have a phosphorescent background and opaque text. Where a directional sign was required to be illuminated there shall be either (1) an illuminated directional sign with the lettering, indicator, symbol or other device thereon made of the aforesaid phosphorescent material, or (2) a supplemental directional sign with the same lettering, indicator, symbol or device as appears on the illuminated sign, but opaque, on a background made of the aforesaid phosphorescent material and placed adjacent to or as close as possible to such illuminated sign.

(c) Except where otherwise permitted by the provisions of any law, the lettering of exit signs shall be of letters of at least eight inches high.

(d) In those buildings not provided with artificial lighting, in those buildings which maintain one or more auxiliary systems for emergency exit lighting in the event of a public utility failure, and in those buildings for which the installation of one or more such auxiliary systems is commenced on or before August sixth, nineteen hundred sixty-nine, the signs need not be phosphorescent but shall otherwise conform to this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-607.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-390

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-390 Applicability.

This article is applicable to all buildings and existing buildings which have at least one elevator which is subject to periodic inspections pursuant to section 27-998, and any existing office building occupied or arranged to be occupied for an occupant load of more than one hundred persons above or below the street level or more than a total of five hundred persons in the entire building.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-608.1 added LL 5/1973 § 11

Amended LL 16/1984 § 48

Amended LL 96/1985 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-391

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-391 Signs at elevator landings.

A sign shall be posted and maintained on every floor at the elevator landing. The sign shall read "IN CASE OF FIRE, USE STAIRS UNLESS OTHERWISE INSTRUCTED". The lettering shall be at least one-half inch block letters in red with white background or as otherwise approved by the commissioner. Such lettering shall be properly spaced to provide good legibility. The sign shall also contain a diagram showing the location where it is posted and the location and letter identification of the stairs on the floor. The sign shall be at least ten inches by twelve inches, located directly above a call button and securely attached to the wall or partition. The top of such sign shall not be above six feet from the floor level. The diagram on such sign may be omitted provided that signs containing such diagram are posted in conspicuous places on the respective floor. In such case, the sign at the elevator landing shall be at least two and one half inches by ten inches and the diagram signs shall be at least eight inches by twelve inches.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-608.2 added LL 5/1973 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-392

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-392 Floor numbering signs.

A sign shall be posted and maintained within each stair enclosure on every floor, indicating the number of the floor. The numerals shall be of bold type and at least three inches high. The numerals and background shall be in contrasting colors. The sign shall be securely attached to the stair side of the door.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-608.3 added LL 5/1973 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-393

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-393 Stair and elevator identification signs.

Each stair and each bank of elevators shall be identified by an alphabetic letter. A sign indicating the letter of identification for the elevator bank shall be posted and maintained at each elevator landing directly above or as part of the sign specified in section 27-391 of this article. The stair identification sign shall be posted and maintained on the occupancy side of the stair door. The letter on the sign shall be at least three inches high, of bold type and of contrasting color from the background. Such signs shall be securely attached.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-608.4 added LL 5/1973 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-394

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-394 Stair re-entry signs in office buildings.

Signs shall be posted and maintained on the stair door at each floor in buildings classified in occupancy group E occupied or arranged to be occupied for an occupant load of more than one hundred persons above or below the street level or more than a total of five hundred persons in the entire building indicating whether re-entry is provided into the building and the floor where such re-entry is provided. The lettering and numerals of the signs shall be at least one-half inch high of bold type. The lettering and background shall be contrasting colors and the signs shall be securely attached approximately five feet above the floor. The signs shall read as follows and may be either independent or combined with the corresponding sign required by sections 27-392 and 27-393 of this article.

(a) Where no re-entry is provided from the stairs to any floor, the sign shall read "NO RE-ENTRY FROM THIS STAIR" and such sign shall be on the occupancy side of the stair door at each floor. No re-entry sign shall be required on the stair side of the door.

(b) Where re-entry is provided to specified floors:

(1) On the stair side of the door at floors where re-entry is provided, the sign shall read "RE-ENTRY ON THIS

FLOOR".

(2) Where no re-entry is provided on that floor, the sign on the stair side of the door shall read "NO RE-ENTRY, NEAREST RE-ENTRY ON THE AND FLOORS". The floor numbers of the nearest re-entry below and the nearest re-entry floor above shall be entered in the blank spaces.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION Formerly § C26-608.5 added LL 5/1973 § 11 Amended LL 45/1984 § 4

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-395

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-395 Materials for signs.

Signs required by this article shall be of metal or other durable material.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION Formerly § C26-608.6 added LL 5/1973 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 9 STAIR AND ELEVATOR SIGNS

§ 27-396 Signs in existing buildings.

(a) Signs installed prior to the enactment of this article may be accepted by the commissioner, provided that such signs will adequately accomplish the intended purpose.

(b) In buildings existing prior to January eighteenth, nineteen hundred seventy-three, the commissioner may modify the requirements as to location of signs where compliance would cause practical difficulty or undue hardship.

(c) All existing buildings not already subject to the requirements of this article as of January eighteenth, nineteen hundred seventy-three shall comply with the requirements of this article on or before October first, nineteen hundred eighty-five.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION Formerly § C26-608.7 added LL 5/1973 § 11 Amended LL 16/1984 § 49

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 10 SIGNS IN SLEEPING ROOMS

§ 27-396.1 Applicability.

This article is applicable to buildings and existing buildings classified in occupancy group J-1.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-609.1 added LL 16/1984 § 50

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Administrative Code of the City of New York

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NYC Administrative Code 27-396.2

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 10 SIGNS IN SLEEPING ROOMS

§ 27-396.2 Requirements.

All buildings and existing buildings classified in occupancy group J-1 shall post and maintain a sign on the inside of every door opening onto a public corridor giving access to a sleeping room. The sign shall contain a diagram showing the location where it is posted and the location and letter identification of the exit stairs on the floor. The diagram shall indicate the number of doors opening onto the public corridor which must be passed to reach each exit stair. The sign shall be at least eight inches by ten inches, located on the inside of the door and securely attached thereto. The top of such sign shall not be more than six feet from the floor level. Such sign shall contain such additional information as the fire department may require.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-609.2 added LL 16/1984 § 50

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396.3

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 10 SIGNS IN SLEEPING ROOMS

§ 27-396.3 Retroactive requirements.

All existing buildings required to comply with the provisions of this article shall post the requisite signs on or before April first, nineteen hundred eighty-seven. Signs installed prior to such date may be accepted by the commissioner, provided that such signs adequately accomplish the intended purpose.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-609.3 added LL 16/1984 § 50

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396.4

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 11 EMERGENCY POWER

§ 27-396.4 Requirements.

Where required by this article or any other provision of this code, an emergency power system shall be provided. The emergency power system shall have a power source and fuel supply sufficient to operate the following equipment in accordance with rules and regulations promulgated by the department, where such equipment is required to be provided by this code:

(a) Fire pumps and booster pumps.

(b) At least three elevators at one time, with manual transfer to other elevators.

(c) Alarm systems.

(d) Communication systems.

(e) Emergency lighting, if battery packs are not provided.

(f) Ventilating systems used for smoke venting or control.

(g) Stair pressurization.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-610.1 added LL 16/1984 § 50

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396.5

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 11 EMERGENCY POWER

§ 27-396.5 Registration.

Emergency power generation equipment shall be registered with the department of environmental protection, bureau of air resources in accordance with the requirements of section 24-109 of title twenty-four of the administrative code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-610.2 added LL 16/1984 § 50

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-396.6

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 6 MEANS OF EGRESS

ARTICLE 11 EMERGENCY POWER

§ 27-396.6 Applicability.

Emergency power systems meeting the requirements of this article shall be provided in the following buildings and building sections:

(a) High rise buildings and building sections classified in occupancy group C, E, G or H.

(b) Buildings and building sections classified in occupancy group E or G which do not exceed seventy-five feet in height but have a gross area of over fifteen thousand square feet per floor or a total gross area of one hundred thousand square feet or more.

(c) Spaces classified in occupancy group F-4 having an occupant load of three hundred or more persons.

(d) Buildings and building sections classified in occupancy group J-1.

(e) Buildings and building sections containing an atrium.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-610.3 added LL 16/1984 § 50

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-397

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 1 GENERAL

§ 27-397 Scope.

This subchapter shall apply only to those building types, uses, and occupancies specifically regulated herein, and the requirements of this subchapter shall be in addition to the general requirements of other subchapters of this code governing the size, location, fire protection, means of egress, construction, and service equipment of buildings. Chemical plants, packing plants, refineries, and similar special occupancies may be constructed in accordance with the practices and requirements of the particular industry, subject to the approval of the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-700.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-398

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 1 GENERAL

§ 27-398 Standards.

The provisions of reference standard RS-7 shall be a part of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-700.2 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-399

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 1 GENERAL

§ 27-399 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-700.3 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-400

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-400 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces for high hazard occupancies classified in occupancy group A under the provisions of subchapter three of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-401

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-401 Explosion hazard and unlisted occupancies.

Buildings or spaces of high hazard occupancies that involve explosion hazards or that are not specifically provided for in this code, shall be constructed to provide any necessary additional protection adequate for the hazard involved subject to approval by the com- missioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-402

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-402 Other requirements.

The occupancy and use of high hazard buildings and spaces shall also be subject to the applicable requirements of chapter four of this title.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-403

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-403 Location.

High hazard occupancies shall not be located within, or attached to, a building occupied for any other use, unless separated from such other use by noncombustible construction having not less than a four hour fire resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-404

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-404 Sprinkler requirements.

Sprinkler protection meeting the construction requirements of subchapter seventeen of this chapter shall be installed in all high hazard occupancies. Where the nature of the fire hazard is such that water is not effective as an extinguishing agent, the extinguishing agent to be used, shall be subject to the approval of the fire commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-405

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 2 HIGH HAZARD OCCUPANCIES

§ 27-405 Ventilation of storage occupancies.

Rooms or spaces used for the storage of flammable paints, solvents, anesthetic agents, fuel or other oils having a flashpoint under two hundred degrees Fahrenheit (Tag closed cup) or other inflammable vaporous materials shall be vented to the outdoors by gravity or mechanical means, with independent supply and exhaust openings or ducts. If ventilation is provided by gravity means, the total net free openable area of supply and exhaust openings shall be equal to at least one percent of the floor area of the room, equally divided between supply and exhaust. If ventilation is provided by mechanical means, the system shall be designed to provide at least two air changes per hour. Where there are explosion hazards, see section 27-401 of this article. The construction of all ventilating systems shall be in accordance with the requirements of subchapter thirteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-701.6 added LL 76/1968 § 1

Amended LL 39/1972 § 29

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-406

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-406 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces for the spraying, dipping, or drying of flammable paints, varnishes, and lacquers or other flammable materials, mixtures, or compounds used for painting, varnishing, staining, or similar purposes.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-407

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-407 Classification.

All occupancies involving spray painting, dipping, and drying with flammable materials shall be classified in high hazard occupancy group A.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-408

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-408 Location of processes.

Spraying, dipping, or drying processes shall be located in accordance with the requirements of 27-403 of article two of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-409

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-409 Construction.

(a) Spray booths. Spray booths shall be substantially constructed of noncombustible materials. Panels of polished wired glass at least one-quarter inch thick, not exceeding seven hundred twenty square inches in area and not more than forty-eight inches in any linear dimension, may be used in the sides of spray booths.

(1) Spray booths shall be provided with a mechanical ventilating system meeting the requirements of section 27-410 of this article.

(2) Each spray booth having a frontal area larger than nine square feet shall have a noncombustible deflector or curtain at least six inches deep installed along the upper outer edge of the booth, over the opening, and shall be protected with an automatic sprinkler system. The interior of ducts shall be protected with sprinklers complying with the construction requirements of subchapter seventeen of this chapter, installed not more than twelve feet apart in horizontal ducts, and the sprinklers shall be accessible through duct access doors.

(b) Dip tanks. Dip tanks, including their supports and drainboards when provided, shall be of an approved type.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.4 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-410

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-410 Ventilation.

Spraying or dipping spaces shall be mechanically ventilated during spraying or dipping operations so that the velocity of air is at least one hundred linear feet per minute in the breathing zone of the operator, conveying air toward the exhaust hood. The ventilating system shall be of sufficient capacity to prevent the accumulation of mist or vapors. Air shall be admitted to the spraying or dipping spaces in an amount equal to the capacity of the fan or fans and in a manner that prevents short-circuiting the path of air in the working zone of such spaces. The exhaust fan control shall be interconnected with spray guns so that they cannot be operated without the ventilation system being in operation. Exhaust fans shall, in addition, be arranged to operate independently of spray guns. Ventilation equipment shall be kept in operation for sufficient length of time after spraying or dipping operations to exhaust all vapors, fumes, or residues of spraying materials from the spray, space dip space, or drying room.

(a) Ventilating ducts shall run directly to the outer air and be protected with a hood against the weather. Ventilating ducts shall be installed in accordance with the requirements of subchapter thirteen of this chapter, but shall not terminate within ten feet horizontally of any chimney outlet, or within twenty feet of any exit or any opening in an adjoining wall.

(b) Make-up air shall be supplied from a point outside the spraying or dipping space.

(c) The exhaust system from any spraying, dipping or drying space shall not be connected to any other ventilating system or be discharged into a chimney or flue used for the purpose of conveying gases of combustion.

(d) Exhaust fan blades shall be constructed of nonferrous material. Fan blades not coming in direct contact with spraying fumes need not comply with this requirement.

(e) Adequate access doors or panels, tightly fitted, shall be provided to permit inspection and cleaning of ducts.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.5 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-411

Administrative Code of the City of New York

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-411 Drying equipment.

Ovens and furnaces operated in connection with spray or dip finishing processes shall be of an approved type.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-412

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 3 OCCUPANCIES INVOLVING SPRAY OR DIP FINISHING

§ 27-412 Sprinklers.

Sprinkler protection shall be provided in all spraying, dipping, or drying spaces using flammable materials in accordance with the construction requirements of subchapter seventeen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-702.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-413

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 4 USES AND OCCUPANCIES INVOLVING RADIOACTIVE MATERIALS AND RADIATION-PRODUCING EQUIPMENT

§ 27-413 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces for radioactive materials and radiation-producing equipment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-703.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-414

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 4 USES AND OCCUPANCIES INVOLVING RADIOACTIVE MATERIALS AND RADIATION-PRODUCING EQUIPMENT

§ 27-414 City, state and federal regulations.

In addition to the requirements of this section, occupancies involving radioactive materials and radiation-producing equipment shall also comply with applicable requirements of the city health code, relating to radiological hazards, of part thirty-eight of the state industrial code relating to radiation protection, and of title ten of the code of federal regulations relating to atomic energy.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-703.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-415

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 4 USES AND OCCUPANCIES INVOLVING RADIOACTIVE MATERIALS AND RADIATION-PRODUCING EQUIPMENT

§ 27-415 Laboratories.

All laboratories required to register under the requirements of the New York city health code shall comply with the following:

(a) Construction. All buildings in which such laboratories occur shall be of noncombustible group I construction.

(b) Floors. All floors shall comply with the fire-resistance requirements for the class of construction, and provide the degree of radioactive resistance required by applicable city, state, and federal regulations. A finished material shall be applied to provide a continuous nonporous surface which may be readily removed.

(c) Interior finish. All insulation of acoustical treatments and interior partitions shall be of noncombustible material. Walls and ceilings shall have nonporous finishes of class A rating.

(d) Sprinkler protection. Automatic sprinkler protection complying with the construction provisions of subchapter seventeen of this chapter shall be provided, and such protection shall be designed for the type of combustible

materials wherever such material is used, and for the radioactive material that may be expected to melt, vaporize, or oxidize under fire conditions. Laboratory equipment susceptible to damage from water or other materials used in the sprinkler system may be shielded by hoods except when the equipment provides a source of combustion. Where sprinkler protection uses water, or small water-spray installations are used to fight small isolated fires, floors shall be provided with drainage so that water may be carried to retention tanks for later disposal as required by the New York city health code when contamination of the water is to be anticipated.

(e) Electrical controls. Electrical controls and equipment shall be installed in accordance with the requirements of the electrical code of the city of New York.

(f) Ventilation. Exhaust air from areas in which radioactive materials are used or stored shall be exhausted to the outdoors in such manner as not to create a health hazard, and shall not be recirculated to other areas of the building. Air pressure in rooms in which radioactive materials are used or stored shall be maintained below the the air pressure of adjoining rooms, so that there is no flow of radioactive gases or dusts into adjoining rooms.

(1) Ducts shall be of sheet steel of not less than No. 16 manufacturers' standard gauge or of other equivalent noncombustible material having a melting point above eighteen hundred degrees Fahrenheit. Exhaust ducts within the building, on the discharge side of the fan, shall be welded airtight. Exhaust ducts within the building, on the suction side of the fan shall have laps in the direction of air flow with smoke-tight joints, and shall be subjected to a smoke test in accordance with the requirements for chimneys in subchapter fifteen of this chapter. Access hatches with tight-closing covers shall be provided for cleaning and for fire-fighting in the exhaust system ducts.

(2) Fume hoods shall be exhausted to the outdoors. Controls for hood fans shall be interlocked so that contaminated air cannot be drawn into any space from a hood where the exhaust fan is not in operation.

(3) Fan equipment other than the impeller and impeller housing shall be located outside the exhaust stream.

(4) When the degree of contamination of the exhaust stream exceeds the concentration limits permitted by the health code, the duct system shall be equipped with devices to decontaminate the air to a safe level before discharging to the outdoor air.

(g) Plumbing. Drainage lines from sinks used for radioactive wastes shall be without traps, and shall lead to retention tanks when required by the provisions of the New York city health code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-703.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-416

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 4 USES AND OCCUPANCIES INVOLVING RADIOACTIVE MATERIALS AND RADIATION-PRODUCING EQUIPMENT

§ 27-416 Radiation machines.

Radiation machines or particle accelerators, linear accelerators, cyclotrons, synchrotons, betatrons, or bevatrons shall be located only in buildings of noncombustible group I construction; however, this requirement shall not apply to conventional medical, dental, research, or industrial x-ray machines of less than one million volt capacity.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-703.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-417

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 4 USES AND OCCUPANCIES INVOLVING RADIOACTIVE MATERIALS AND RADIATION-PRODUCING EQUIPMENT

§ 27-417 Storage.

Radioactive materials shall be stored in sealed containers. When required by the commissioner to avoid too concentrated an exposure within any one space, radioactive materials shall be stored in vaults designed in accordance with the radiation shielding or other requirements for the materials to be stored. When any materials are subject to melting, vaporization, or oxidation under fire conditions, the storage vaults shall be constructed of walls having a fire-resistance rating of at least four hours, and the vaults shall be equipped with automatic sprinklers complying with the construction requirements of subchapter seventeen of this chapter and shall be vented through devices to decontaminate the air to a safe level. Doors opening into storage vaults shall meet shielding requirements and have a fire-protection rating of not less than three hours. All bins, shelving, partitions, and pallets in storage vaults shall be of noncombustible materials. Other methods of storage permitted by the health department or the atomic energy commission, such as storage under water, may be used.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-703.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-418

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-418 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces for the enclosure of boilers, furnaces, and similar fuel-burning, heat-producing equipment.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.1 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-419

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-419 Enclosure.

Boilers or furnaces hereafter installed in any building, other than replacement boilers and furnaces and boilers or furnaces used to heat one- or two-family dwellings, shall be enclosed and separated from the rest of the building by noncombustible construction having at least a one hour fire-resistance rating, except that:

(a) All boilers carrying more than fifteen psi pressure and having a rating in excess of ten horsepower, shall be located in a room or compartment separated from the rest of the building by noncombustible construction having at least a two hour fire-resistance rating.

(b) Boilers or furnaces located adjacent to, or within, automotive repair shops, public garages (group 1), or any occupancy classified in high hazard occupancy group A shall be located in separate buildings or, in rooms enclosed by noncombustible construction having at least a two hour fire-resistance rating. Entrance to such enclosed rooms shall be from the outdoors, or through an intervening vestibule constructed of materials having a two hour fire-resistance. rating. The floor area of such vestibules shall be at least fifty square feet, but not more than seventy-five square feet. Ventilation shall be provided by a louver permanently open to the outdoor air having a net free area of one hundred forty-four square inches, located near the floor. Vestibule doors shall be one and one-half hour self-closing fire doors,

with a six inch high sill provided at the door between the vestibule and the boiler room. Both doors shall swing in the direction of the boiler room.

(c) Boilers having a rated gross capacity of less than sixty-seven thousand btu per hour for generating steam shall not be required to be enclosed, except as provided in subdivision (b) of this section.

(d) Electric or fuel-fired space heaters need not be enclosed when they are approved for installation without enclosure and are installed in accordance with the conditions of approval.

(e) Boilers and furnaces used in conjunction with commercial and industrial processes need not be enclosed, subject to the approval of the commissioner.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.2 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

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Administrative Code of the City of New York

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NYC Administrative Code 27-420

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-420 Location.

Rooms containing boilers or furnaces, or other equipment of similar or greater explosion hazard, shall not be located within fifty feet of any place of assembly, unless separated from such place of assembly by construction complying with the provisions of section 27-401 of article two of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.3 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-421

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-421 Clearances.

Enclosing construction for boilers and furnaces shall meet the minimum clearance requirements prescribed in subchapter fourteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.4 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

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Administrative Code of the City of New York

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NYC Administrative Code 27-422

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-422 Ash storage pits and bins.

Ash storage pits and bins not located within a boiler room enclosure shall be constructed of two hour fire-resistive construction, except that roofs over ash pits may be constructed of noncombustible materials.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.5 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

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Administrative Code of the City of New York

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NYC Administrative Code 27-423

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-423 Exit requirements.

In every room containing a boiler, furnace, or incinerator, the maximum travel distance from any point within the room to an exit shall not exceed fifty feet. When two or more exits are so required, only the main exit shall comply with the size and construction requirements of subchapter six of this chapter. The other exit or exits may be noncombustible ladders or stairs leading to exit openings not less than thirty-two inches by forty-eight inches.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.6 added LL 76/1968 § 1

Amended LL 39/1972 § 30

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-424

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 5 BOILER AND FURNACE ROOMS*15

§ 27-424 Ventilation.

Boiler and furnace rooms shall be ventilated in accordance with the provisions of section 27-807 of article nine of subchapter fourteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-704.7 added LL 76/1968 § 1

FOOTNOTES

15

[Footnote 15]: * Formerly covered by §§ C26-693.0, C26-694.0, C26-697.0, C26-698.0, C26-699.0 from original code, amended LL 145/1940, LL 15/1945, LL 32/1958, LL 5/1949.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-425

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-425 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces for dry cleaning or dry dyeing operations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-426

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-426 Classification.

Dry cleaning and dry dyeing establishments shall be classified as follows:

(a) High hazard. All establishments employing gasoline or other solvents having a flash point below 100° F (tag. closed-cup).

(b) Moderate hazard. All establishments employing solvents having a flash point between 100° F and 138.2° (tag. closed-cup).

(c) Low hazard. All establishments employing solvents with a flash point higher than 138.2° F (tag. closed-cup).

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.2 added LL 76/1968 § 1

NYC Administrative Code 27-427

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-427 Construction requirements.

(a) High hazard. The construction or installation of high hazard dry cleaning establishments shall be prohibited.

(b) Moderate hazard. Moderate hazard dry cleaning establishments shall meet all of the requirements of this code applicable to industrial occupancy group D-1 buildings. The floor finish in moderate hazard dry cleaning establishments shall be noncombustible and impervious.

(c) Low hazard. Low hazard dry cleaning establishments shall meet all of the requirements of this code applicable to industrial occupancy group D-2 buildings.

(d) Equipment. All dry cleaning machines and equipment shall be of an approved type.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-428

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-428 Ventilation.

Mechanical ventilation systems in moderate hazard plants shall be adequate to effect ten complete air changes per hour. Low hazard dry cleaning establishments shall be provided with mechanical ventilation adequate to effect four complete air changes per hour. Ventilating systems shall be arranged in such manner as to prevent solvent vapors from being admitted to the combustion area of any device requiring an open flame. Sufficient make-up air shall be introduced into all parts of the establishment to equal the air exhausted by the dry cleaning units, dryers, and exhaust ventilating system. Such air shall not contain any flammable vapors. Openings or stacks discharging solvent vapor-air mixtures to the outdoors shall be located in accordance with the provisions of subchapter thirteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.4 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-429

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-429 Coin-operated units.

In coin-operated establishments all dry cleaning units shall be installed in such a manner that the working or maintenance portion of the equipment shall be separated from the front of the units by solid noncombustible partitions. Coin-operated units shall be located within a diked area, all parts of which are impervious to the solvent used in such units. The diked section shall be a four inch curb above the floor. Provisions shall be made for the collection of solvent spillage into tanks of capacity sufficient to contain all of the solvent in the dry cleaning units served, and for return of the solvent to the cleaning units through a closed pipe system. Access doors to the space in back of the units shall be kept closed and locked. Solvent storage tanks and other sources of danger shall be so situated as to be inaccessible to the general public. In addition to the mechanical ventilation required for low hazard dry cleaning establishments, the following mechanical ventilation shall be provided:

(a) All dry cleaning units shall have facilities that create an inward flow of one hundred cubic feet of air per minute into the unit when the loading door is opened.

(b) Emergency ventilation of the space in back of the dry cleaning units shall be provided so that in emergencies a minimum of one air change per minute in the enclosed space will be provided. Emergency ventilation equipment shall

be on a circuit that is separate from the general lighting and power circuits, and shall be taken off ahead of the main switchboard, or shall be connected to the emergency lighting power source when such source is provided.

(c) A scavenger duct system shall be provided in the space in back of the units at each unit, and shall be designed to pick up vapor surrounding the equipment near the floor and exhaust it at the rate of one hundred cubic feet per minute. Scavenger ducts shall not be less than five square inches in area.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-430

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-430 Sprinklers.

Automatic sprinkler protection complying with the construction provisions of subchapter seventeen of this chapter as required for occupancy group D-1, shall be provided for moderate hazard dry cleaning establishments. In addition, in moderate hazard establishments each dry cleaning unit shall be provided with automatic extinguishing equipment, such as a carbon dioxide system, or a steam jet of not less than three-quarters of an inch at a pressure of fifteen psi.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-431

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 6 DRY CLEANING ESTABLISHMENTS

§ 27-431 Separation of direct-fired dryers.

In moderate hazard dry cleaning establishments, direct-fired dryers shall not be used. In low hazard dry cleaning establishments using nonflammable solvents only, direct fired dryers may be used, but such dryers shall not be located within twenty-five feet of a dry cleaning unit unless a noncombustible partition (which may be glazed), equipped with self-closing doors, is provided between the dry cleaning unit and the flame producing device. This partition may provide either complete or partial separation, provided that any partial separation shall be so arranged that the line of air travel around the partition from the cleaning units to the dryer is a minimum of twenty-five feet. Where a solid noncombustible partition is constructed extending to the ceiling and all portions of the enclosure are solid, except for self-closing access doors, and outdoor air for combustion and drying is supplied, the separation may be reduced to fifteen feet.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-705.7 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-432

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-432 Application.

This section shall apply to the construction, alteration, and use of building roofs, or parts thereof, as heliports.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-433

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-433 Classification.

Heliports on building roofs shall be classified in industrial occupancy group D-1. They shall be separated from all other portions of the building by construction meeting the requirements of table 5-2 for fire divisions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-434

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-434 Construction.

Heliports shall be permitted only on buildings classified in noncombustible construction group I. All heliport construction above the building roof shall be noncombustible. No openings in the roof shall be permitted in the landing area. Roof openings outside the landing area shall be protected from flammable liquid spillage by four inch curbs and shall be surrounded by metal railings at least three feet complying with the requirements of subchapter nine of this chapter. The landing area shall be enclosed with a substantial metal fence or skirt.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-435

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-435 Limitations.

No refueling facilities shall be provided, and no major aircraft repair or maintenance facilities shall be provided.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-436

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-436 Exits.

At least two means of egress, meeting the requirements of subchapter six of this chapter, shall be provided for each landing area. The exits shall be remote from each other and shall lead to the building stairways.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.5 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-437

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 7 HELIPORTS

§ 27-437 Fire protection.

Heliports shall be provided with fire-foam extinguishing equipment and fire alarm facilities meeting the following requirements:

(a) At least two hose stations housing approved foam generating equipment shall be provided remote from each other and located adjacent to outlets of the building standpipe system or other source of water supply. Hoses shall be provided with nozzles and related equipment for dispensing foam to all portions of the roof.

(b) The building standpipe system or other source of water supply shall be capable at all times of providing two hose streams simultaneously, each of which will afford foam application at a total water rate of at least sixty gallons per minute at a nozzle pressure*16 of seventy-five psi for a period of ten minutes.

(c) A fire alarm system meeting the installation requirements of subchapter seventeen of this chapter shall be provided with a direct connection to the central station of an operating fire alarm company and with a local alarm to all heliport personnel.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-706.6 added LL 76/1968 § 1

FOOTNOTES

16

[Footnote 16]: * So in original. (Word misspelled.)

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-438

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 8 AUTOMOTIVE SERVICE STATIONS

§ 27-438 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces as automotive service stations.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-707.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-439

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 8 AUTOMOTIVE SERVICE STATIONS

§ 27-439 Classification.

Automotive service stations shall be classified in business occupancy group E.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-707.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-440

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 8 AUTOMOTIVE SERVICE STATIONS

§ 27-440 Gasoline and diesel oil motor vehicle fuel storage.

All volatile flammable liquids and diesel oil motor vehicle fuel storage tanks shall be installed below ground and vented to the open air except for such aboveground installation as may be authorized by the rules of the fire commissioner. The installation and venting of storage tanks shall be in accordance with applications and plans approved by the commissioner and shall also meet the requirements of chapter four of this title and the rules of the fire commissioner. Except as otherwise provided for in chapter four of this title or the rules of the fire commissioner, underground tank installations shall comply with the following:

(a) The tops of the tanks shall be at least two feet below finished grade and at least two feet below the level of any cellar or basement floor within ten feet of the tanks.

(b) Tanks shall be supported on foundations complying with subchapter eleven of this chapter.

(c) Tanks shall be located so that the forces from any building foundation and support loads are not transmitted to the tanks. The distance from any part of a tank to the nearest wall of any basement, pit or cellar, or from any property line that may be built upon, shall not be less than three feet.

(d) Tanks shall be covered with a structurally supported reinforced concrete slab at least eight inches thick extending at least twelve inches beyond the horizontal outlines of the tanks and placed over a coverage of suitable clean backfill material.

(e) All concrete shall have a minimum compressive strength of twenty-five hundred pounds per square inch at twenty-eight days.

HISTORICAL NOTE

Section amended L.L. 68/1999 § 1, eff. Mar. 21, 2000.

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-707.3 added LL 76/1968 § 1

Amended LL 70/1969 § 32

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-441

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 8 AUTOMOTIVE SERVICE STATIONS

§ 27-441 Location of pumps.

No gasoline pumps or other mechanical equipment shall be installed so as to permit servicing of motor vehicles standing on a public street. Canopies and supports over pumps and service equipment shall be noncombustible, except that they may be of construction having a one hour fire resistance rating or of heavy timber construction meeting the requirements of section 27-623 of article seven of subchapter ten of this chapter when located more than twenty feet from interior lot lines and from any building or structure.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-707.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-442

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 8 AUTOMOTIVE SERVICE STATIONS

§ 27-442 Heating equipment.

Heat generating equipment for automotive service stations shall be enclosed in accordance with the requirements of section 27-419 of article five of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-707.5 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-443

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-443 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces as automotive repair shops.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-444

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-444 Classification.

Automotive repair shops shall be classified in industrial occupancy group D-1.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-445

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-445 Volatile flammables.

All volatile flammables shall be stored and handled in accordance with the provisions of chapter four of this title.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-446

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-446 Ventilation.

All spaces used for the repair of motor vehicles shall be provided with mechanical ventilation adequate to provide four air changes per hour.

(a) Exhaust gases. Where engines are to be run for test purposes or adjustments, provisions shall be made to collect the exhaust gases from each vehicle and to discharge such gases to the outer air by means of a positively induced draft. The discharge opening from such system shall be located as required by subchapter thirteen of this chapter.

(b) Pits. All pits for inspection or repair shall have mechanical exhaust ventilation taken from near the bottom of the pits. Pit exhaust systems shall be adequate to provide at least four air changes per hour.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-447

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-447 Sprinklers.

Automatic sprinkler protection complying with the construction provisions of subchapter seventeen of this chapter shall be provided as required by occupancy group D-1.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-448

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-448 Heating equipment.

Heat generating equipment for automotive repair shops shall be enclosed in accordance with the requirements of section 27-419 of article five of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.6 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-449

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 9 AUTOMOTIVE REPAIR SHOPS

§ 27-449 Pits.

All pits shall be provided with two means of egress.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-708.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-450

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 10 PUBLIC GARAGES

§ 27-450 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces as public garages. Any areas of such buildings in which gasoline, oil, and similar products are dispensed shall meet the requirements of article eight of this subchapter; any areas in which motor vehicles are repaired shall meet the requirements of article nine of this subchapter; and any areas in which any paint spraying is done shall meet the requirements of article three of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-451

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 10 PUBLIC GARAGES

§ 27-451 Classification.

Public garages shall be classified according to their specific uses as follows:

(a) Group 1. Buildings or spaces used for the parking of vehicles having fuel storage tanks in excess of twenty-six gallon capacity; or used for the parking of vehicles of any size, and in which mechanical repair, body work, or painting of vehicles is conducted, or in which gasoline, oil, or similar products are dispensed. Group 1 public garages shall be classified in storage occupancy group B-1.

(b) Group 2. Buildings or spaces used exclusively for the parking of vehicles having fuel storage tanks of twenty-six gallon capacity or less, and in which no repair, body work or painting of vehicles is conducted, and in which no gasoline, oil, or similar products are dispensed. Group 2 public garages shall be classified in storage occupancy group B-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-452

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 10 PUBLIC GARAGES

§ 27-452 Construction.

The street floor construction of group 1 public garages shall have at least a two hour fire-resistance rating. Where openings are provided in the floor of any public garage, they shall be protected by railings complying with the requirements of subchapters nine and ten of this chapter, with a curb or ramp at least six inches high above the floor. All floors shall be concrete or equivalent noncombustible material. Columns in parking areas shall comply with the provisions of section 27-559 of article three of subchapter nine of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-453

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 10 PUBLIC GARAGES

§ 27-453 Group 1 public garages in buildings of other occupancy classification.

No group 1 public garage shall be located within, or attached to, a building occupied for any other use, unless separated from such other use by construction meeting the requirements of table 52 for fire divisions. Elevators, stairways, and exit passageways connecting group 1 garages to other occupancies shall be accessible only through vestibules constructed of materials having a two hour fire-resistance rating. The floor area of such vestibules shall be at least fifty square feet but not more than seventy-five square feet. Ventilation shall be provided by a louver permanently-open to the outdoor air having a net free area of one hundred forty-four square inches, located near the floor. Vestibule doors shall be one and one-half hour self-closing fire doors, with a six inch high sill provided at the door between the vestibule and the garage. Both doors shall swing in the direction of the elevators, stairways or exit passageways.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-454

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 10 PUBLIC GARAGES

§ 27-454 Roof storage of motor vehicles.

Roofs of buildings shall not be used for the parking or storage of motor vehicles unless the building is of class I-A, I-B, or I-C construction, or is an open parking structure. When the roof of a building is used for parking of motor vehicles, it shall be provided with a parapet wall or guard rail at least three feet six inches high, and with curbs or wheel guards of noncombustible materials of a least eight inches high. Such guards shall be substantially anchored to prevent any vehicle from striking the parapet wall or guard rail. Guard rails shall comply with the requirements for railings in subchapter nine of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.5 added LL 76/1968 § 1

CASE NOTES

¶ 1. The defendant's failure to anchor a wheel stop to the floor of a parking lot is a violation of a statutory duty. Thus, if such violation creates a dangerous condition which causes plaintiff to fall, defendant will be liable for plaintiff's injuries. White v. Gabrielli, 272 A.D.2d 469, 707 N.Y.S.2d 505 (2d Dept. 2000).

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-455

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 10 PUBLIC GARAGES

§ 27-455 Sprinklers.

(a) Automatic sprinkler protection complying with the construction provisions of article four of subchapter seventeen shall be provided as required for occupancy group B-1 or B-2 respectively, except that in existing buildings lawfully occupied as garages prior to December sixth, nineteen hundred sixty-eight, storage of forty-five thousand gallons or less of product having a flash point over one hundred degrees° F (tag open cup) in the cargo space of tank truck or other vehicles approved for such storage by the fire commissioner, pending delivery, shall not be deemed to require sprinkler protection.

(b) Smoke detection or thermostatic alarm with central office connection. A thermostatic alarm system or smoke detection system equipped with a central office connection complying with subchapter seventeen of this code, and reference standard RS-17-3 of the appendix to this code may be provided in lieu of the sprinkler system required under the preceding subdivision in existing buildings lawfully occupied as garages prior to December sixth, nineteen hundred sixty-eight, when the storage of fuel oils or other products having a flash point over one hundred degrees F (tag open cup) is twenty-two thousand five hundred gallons or more but not exceeding forty-five thousand gallons in the cargo space of tank trucks or other vehicles approved for such storage by the fire commissioner, pending delivery.

(c) Portable fire fighting appliances, as the fire commissioner may direct, shall be provided in existing buildings lawfully occupied as garages prior to December sixth, nineteen hundred sixty-eight, when the storage of fuel oils or other products, having a flash point over one hundred degrees F (tag open cup), in the cargo space of tank trucks or other vehicles approved for such storage by the fire commissioner, pending delivery, is less than twenty-two thousand five hundred gallons.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.6 added LL 76/1968 § 1

Amended LL 82/1973 § 3

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-456

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 10 PUBLIC GARAGES

§ 27-456 Ventilation.

Public garages shall be ventilated in accordance with provisions of section 27-766 of article eight of subchapter twelve of this chapter and the following:

(a) Garage spaces above or below grade except as provided in subdivision (e) of this section shall be provided with mechanical ventilation according to one of or a combination of the following methods:

(1) Air exhaust at the rate of not less than one cfm per square foot of total floor area with properly designed means for air inflow.

(2) Air supply at the rate of not less than one cfm per square foot of total floor area with properly designed means for air outflow.

(3) Air exhaust or air supply at a rate sufficient to maintain an average concentration of carbon monoxide not to exceed one hundred parts per one million parts of air for periods longer than one hour and with a maximum concentration at any time not to exceed four hundred parts of carbon monoxide per one million parts of air. The

concentration of carbon monoxide shall be determined by periodic tests taken between three and four feet from the floor by means of approved carbon monoxide detector tubes or other equivalent means. This method of mechanical ventilation may be used only if the overall design includes automatic ventilating fan control by means of approved carbon monoxide monitoring devices or by other approved means located so as to provide full protection for the occupancy.

(b) The provisions of section 27-766 of article eight of subchapter twelve of this chapter shall apply.

(c) Air supply shall be taken from an uncontaminated source. Exhaust outlets shall be located in accordance with the requirements of subchapter thirteen with one-half of them located six inches above floor level. In public garages where motor vehicles are parked by mechanical means, the ventilation requirements shall be one-half of those required above.

(d) No automotive service pits shall be installed in floors below the street floor. Pits shall have mechanical exhaust ventilation taken from near the bottom.

(e) Garage spaces above grade provided with natural ventilation having a free openable area of at least five per cent of the total floor area of the space and having adjustable openings measuring at least six inches by four inches located within six inches of the floor and at most sixteen feet apart on all outside and court walls need not be provided with mechanical ventilation.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.7 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-457

Administrative Code of the City of New York

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ARTICLE 10 PUBLIC GARAGES

§ 27-457 Exits.

Public garages shall be provided with at least two exits from each tier of parking. One of the exits may be a ramp used by motor vehicles, when serving not more than one level below grade. All vertical exits shall have a minimum width of thirty-six inches and shall be enclosed in two hour fire-resistive construction, except as permitted by section 27-458 of article ten of subchapter seven of this chapter. No exit in a group 1 public garage shall have a path of travel through a fuel dispensing area. In group 2 public garages occuring*17 in occupancy group J-2 buildings, overhead doors shall be of the automatic self-closing type.

(a) Travel distance. No point in any public garage shall be more than one hundred feet from an exit, except that such distance may be increased to one hundred fifty feet when the garage is fully sprinklered.

(b) Repair and fuel spaces. Spaces in group 1 public garages used for the repair of motor vehicles or the dispensing of fuel shall be provided with at least two exits, within the travel distance limitations of subdivision (a) of this section.

(c) Roof parking. When the roof of a building is used for parking, interior vertical exits shall be enclosed in a

bulkhead constructed as required by subchapter five of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.8 added LL 76/1968 § 1

FOOTNOTES

17

[Footnote 17]: * So in original. (Word misspelled.)

Administrative Code of the City of New York

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NYC Administrative Code 27-458

Administrative Code of the City of New York

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ARTICLE 10 PUBLIC GARAGES

§ 27-458 Ramps.

Vehicular ramps in public garages shall not exceed a gradient of one in seven, and their surfaces shall be nonslip. A landing having a minimum length of twenty feet shall be provided at the discharge point at the street level, within the street line. Ramps serving as required exits shall be enclosed in construction having a two hour fire-resistance rating except that openings for motor vehicles at each parking tier may be protected by a water curtain consisting of deluge-type sprinkler heads supplying at least three gallons of water per minute per linear foot of opening.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.9 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-459

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 10 PUBLIC GARAGES

§ 27-459 Heating equipment.

Heat generating equipment for public garages shall be enclosed in accordance with the requirements of section 27-419 of article five of subchapter seven of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-709.10 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-459.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 10 PUBLIC GARAGES

§ 27-459.1 Parking spaces for people having physical disabilities.

Parking spaces for people having physical disabilities shall comply with the requirements of section 27-292.19 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 13

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-460

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-460 Application.

This section shall apply to the construction, alteration, and use of open parking structures. Open parking structures in buildings of other occupancy group classification shall not be permitted unless separated from other occupancies by construction having at least a two hour fire resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-461

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-461 Height and area limitations.

The height of the top parking surface, and the area per parking tier, shall not exceed the limitations listed in table 7-1.

TABLE 7-1

Height and Area Limitation of Open Parking Structures

Construction Classification	Maximum Allowable Height (ft.)	Allowable Area Per Parking Tier (sq.ft.)
1A	unlimited	unlimited
1B	unlimited	unlimited
1C	100	50,000
1D	100	50,000

1E	75	30,000

a. The area of an open parking structure having not more than two tiers above grade shall not be limited.

b. Open parking structures of construction class 1C or 1D exceeding three parking levels may be sixty thousand square feet on any parking level provided they shall have at least fifty per cent of their perimeter, fifty per cent open.

c. Open parking structures of construction class 1C or 1D, exceeding three parking levels, may be one hundred thousand square feet on any parking level when fifty per cent of the perimeter is fifty per cent open, and may be one hundred twenty-five thousand square feet on any parking level when seventy-five per cent of the perimeter is fifty per cent open and may be one hundred fifty thousand square feet on any parking level when one hundred per cent of the perimeter is fifty per cent open in all aforementioned cases and shall have frontage space on at least two sides, and the horizontal distance on any level to an open exterior wall shall not exceed two hundred feet.

d. Open parking structures of construction class 1E exceeding three parking levels may be fifty thousand square feet on any parking level when fifty per cent of the perimeter is fifty per cent open and may be sixty-two thousand five hundred square feet on any parking level when seventy-five per cent of the perimeter is fifty per cent open and may be seventy-five thousand square feet on any parking level when one hundred per cent of the perimeter is fifty per cent open in all aforementioned cases and shall have frontage space on at least two sides, and the horizontal distance on any level to an open exterior wall shall not exceed two hundred feet.

e. The allowable areas specified in notes b, c and d above shall apply only to open parking structures used exclusively for the parking and storage of passenger vehicles accommodating not more than nine passengers but not including trailers, campers or similar vehicles.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.2 added LL 76/1968 § 1

Amended LL 32/1978 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-462

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-462 Construction.

All materials used in the construction of open parking structures shall be noncombustible. Columns in parking areas shall comply with the provisions of section 27-559 of article three of subchapter nine of this chapter. Interior finishes shall be class A. The minimum clear height of any parking tier shall be at least six feet six inches.

(a) Below grade. Any portion of an open parking structure extending below grade shall comply with all of the requirements for public garages as provided in article ten of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.3 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-463

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-463 Exterior walls.

An exterior enclosure wall shall be required on any side of an open parking structure located within fifteen feet of an interior lot line. Such walls shall be noncombustible construction having at least a two hour fire-resistance rating.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-464

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-464 Curbs and bumpers.

Curbs or bumpers of noncombustible materials shall be provided at the perimeter of each parking tier. Such curbs or bumpers shall be at least eight inches high, substantially anchored, and so located that no part of any motor vehicle will contact a wall, partition, or railing.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-465

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-465 Railings.

Substantial railings or protective guards of noncombustible materials shall be provided at the perimeter of all parking tiers, except where exterior walls are provided, and around all interior floor openings. Such railings or guards shall be at least three feet six inches high, and shall be designed in accordance with the requirements of subchapter nine of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.6 added LL 76/1968 § 1

CASE NOTES

¶ 1. The statute, which requires placement of railings or protective guards at the perimeters of parking tiers, does

not apply to a case involving a slip and fall on a sidewalk abutting a ground level outdoor parking facility. Fraguarda v. M & M of Bruckner, Inc., 5 Misc.3d 45, 784 N.Y.S.2d 275.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-466

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-466 Floor openings.

A curb or ramp at least six inches high shall also be provided at all interior floor openings. All floors shall be pitched to provide adequate drainage.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-467

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-467 Motor fuel pumps.

Motor fuel pumps and facilities may be provided within an open parking structure as an accessory use. Such facilities shall comply with the requirements for the storage and handling of volatile flammables as provided in chapter four of this title. The area used for such purpose shall be located on the street floor. No pedestrian exit from any parking area shall have a path of travel through any fuel dispensing area.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.8 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-468

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-468 Mechanical parking.

Open parking structures in which motor vehicles are parked by mechanical means shall comply with the requirements for open parking structures, except that the requirements for means of egress may be modified as provided in section 27-469 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.9 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-469

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-469 Exits.

(a) Driver parking. Open parking structures with driver parking shall be provided with at least two exits from each tier. One of the exits may be a ramp used by motor vehicles, when serving not more than one level below grade. Exit stairs shall have a minimum width of thirty-six inches and may be unenclosed, except that they shall be enclosed in noncombustible construction having at least a two hour fire-resistance rating if the first riser of the stair is more than thirty feet from one of the open exterior walls of the structure. No point on any tier of parking shall be more than one hundred feet from an exit.

(b) Mechanical parking. Open parking structures with mechanical parking equipment shall be provided with at least one exit from each tier of parking. Such exit may be unenclosed, but shall have a minimum width of thirty-six inches. No point on any tier of parking shall be more than two hundred feet from an exit.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.10 added LL 76/1968 § 1

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NYC Administrative Code 27-470

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-470 Ramps.

Ramps used for the movement of motor vehicles and as required exits need not be enclosed when serving tiers above grade. Such ramps shall have a gradient not exceeding one in seven, with nonslip surfaces. A landing having a minimum dimension of twenty feet shall be provided at the discharge point of all ramps at the street level, within the street line. Where a ramp is also used for the parking of motor vehicles, it shall be considered as a parking tier and may not serve as an exit for the occupants of the structure.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.11 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-471

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-471 Elevators.

Passenger elevators in open parking structures shall comply with the requirements of subchapter eighteen of this chapter, except that hoistways may be enclosed with noncombustible construction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.12 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-472

Administrative Code of the City of New York

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-472 Standpipes.

Open parking structures shall be provided with standpipe in accordance with the requirements of subchapter seventeen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-710.13 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-472.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 11 OPEN PARKING STRUCTURES

§ 27-472.1 Parking spaces for people having physical disabilities.

Parking spaces for people having physical disabilities shall comply with the requirements of section 27-292.19 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 14

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Administrative Code of the City of New York

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NYC Administrative Code 27-473

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 12 PRIVATE GARAGES

§ 27-473 Application.

This section shall apply to the construction, alteration, and use of buildings or spaces as private garages.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-474

Administrative Code of the City of New York

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ARTICLE 12 PRIVATE GARAGES

§ 27-474 Classification.

Private garages shall be classified in storage occupancy group B-2.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-475

Administrative Code of the City of New York

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ARTICLE 12 PRIVATE GARAGES

§ 27-475 Attached garages.

Private garages attached to, or located above or below, a dwelling shall have walls, partitions, floors, and ceilings separating the garage from the dwelling, having a fire-resistance rating of at least one hour, except that such fire-resistive construction shall not be required between a dwelling and a carport when such carport is open on at least two sides. Any openings to the dwelling in required walls or partitions shall be protected with one and three-quarter inch solid core wood doors or equivalent.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-476

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 12 PRIVATE GARAGES

§ 27-476 Connection by breezeway.

When a breezeway connects a garage with a dwelling, such a breezeway shall be firestopped at all points of connection to the garage.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-477

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 12 PRIVATE GARAGES

§ 27-477 Floors.

Garage floors shall be of concrete or equivalent noncombustible material that will not absorb flammable liquids. The sills of all door openings connecting a garage with a dwelling shall be raised at least four inches above the garage floor.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.5 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-478

Administrative Code of the City of New York

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ARTICLE 12 PRIVATE GARAGES

§ 27-478 Ventilation.

No air used for heating, cooling, or ventilation shall be circulated through garages to dwellings.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-711.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-479

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 13 OPEN PARKING LOTS

§ 27-479 Application.

This section shall apply to the construction, alteration, and use of open parking lots. Open parking lots shall be unobstructed and free of other uses. All driveways and open spaces used for the parking or storage of motor vehicles shall be surfaced with concrete asphalt, or equivalent durable, dustless material.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-712.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-480

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 13 OPEN PARKING LOTS

§ 27-480 Curb cuts.

For the purpose of this section, a curb cut shall be defined as the total length of cut curb, including splays.

(a) For street frontages of one hundred feet or less, the amount of cut curb shall not exceed sixty per cent of the frontage of the lot. No single curb cut shall exceed thirty feet in length, and there shall not be more than two curb cuts on any street frontage of one hundred feet or less. The minimum distance between two curb cuts shall be five feet.

(b) For additional street frontage over one hundred feet there may be an additional curb cut for each fifty feet of frontage.

(c) No curb cut shall commence within eight feet of a side lot line, except that on lots with street frontages of fifty feet or less, or on corner lots, the curb cut may commence two feet six inches from the side lot line.

(d) The distance of curb cuts from the intersection of street lines shall comply with the zoning resolution.

(e) Notwithstanding any of the above computations, no curb cut shall be less than ten feet.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-712.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-481

Administrative Code of the City of New York

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ARTICLE 13 OPEN PARKING LOTS

§ 27-481 Protection of adjoining property.

(a) Curbs and bumpers. Open parking lots shall be completely separated from adjoining land by curbs or bumpers of concrete, masonry, steel, heavy timber, or other similar and equally substantial materials, securely anchored so as to stop motor vehicles. Curbs and bumpers shall be at least eight inches high and eight inches wide. The only openings permitted in required curbs and bumpers shall be for drainage and for motor vehicle entrances and exits, and at pedestrian entrances.

(b) Drainage.-Where the surface paving of an open parking lot is non-porous, such lot shall be drained as required by subdivisions (b), (c) or (d) of section P110.2 of reference standard RS-16, as applicable. An asphaltic concrete surface, not to exceed one and one-half inches in thickness after compaction, shall be considered a porous surface provided such surface will pass an amount of water equivalent to one-half inch of rainfall per hour and provided such surface is underlaid by permeable soil, except that whenever an off-street parking facility is constructed in connection with the construction of a new building, or whenever such parking facility falls within the definition of a substantial horizontal enlargement as set forth in subdivision (a) of section P110.2 of reference standard RS-16, all storm water falling or coming to rest on such parking facility shall be disposed of as provided in section P110.2 of reference standard RS-16.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Subd. (b) amended L.L. 103/1989 § 4

DERIVATION

Formerly § C26-712.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-482

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 13 OPEN PARKING LOTS

§ 27-482 Accessory uses and occupancies.

Parking lot offices, attendant shelters, storage facilities, and similar structures used in conjunction with open parking lots may be provided for accessory use, but shall comply with all of the provisions of this code applicable to the specific use or occupancy.

Motor vehicle fuel pumps. Fuel pumps for the servicing of motor vehicles may be provided for accessory use in conjunction with open parking lots when complying with the requirements for the storage and handling of volatile flammables as provided in chapter four of this title. Fuel pumps shall be at least thirty feet from any parking space or interior lot line.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-712.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-483

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 13 OPEN PARKING LOTS

§ 27-483 Parking spaces for people having physical disabilities.

Parking spaces for people having physical disabilities shall comply with the requirements of section 27-292.19 and reference standard RS 4-6.

HISTORICAL NOTE

Section added L.L. 58/1987 § 15

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-488

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 15 SWIMMING POOLS

§ 27-488 Application.

This section shall apply to the construction, alteration and use of all indoor and outdoor pools intended for swimming or bathing purposes, except for pools that have less than eighteen inches in depth of water at every point. Pools above grade having a maximum water depth of forty-eight inches above grade and an area not exceeding five hundred square feet that are accessory to J-3 occupancies and that are privately used for noncommercial purposes shall be exempt from the provisions of this subchapter except that such pools shall comply with the requirements of section 27-493 of this article. All pools not exempt from the provisions of this subchapter shall comply with the applicable provisions of subchapter sixteen of this chapter. No building permit shall be required for pools exempted by this section.

Regardless of any contrary provision, any pool existing on January first, nineteen hundred sixty-nine, which is accessory to J-3 occupancies, and that is privately used for noncommercial purposes shall be exempt from the provisions of this subchapter except that such pools shall comply with the requirements of section 27-493 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.1 added LL 76/1968 § 1

Amended LL 6/1969 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-489

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 15 SWIMMING POOLS

§ 27-489 Construction.

Pools shall be constructed so as to be water tight and easily cleaned. They shall be built of nonabsorbent materials with smooth surfaces and shall be free of open cracks and open joints.

(a) Walls. The walls of pools shall be vertical for at least the top two feet six inches below the normal water level. The junctions between the side walls and the bottom shall be coved. A pool overflow shall be provided meeting the requirements of reference standard RS-16.

(b) Bottom slopes. The bottom of any portion of a pool where the water is less than five feet six inches deep shall have a maximum slope of one foot vertically for every fifteen feet horizontally.

(c) Ladders. There shall be a ladder or steps with handrails at the deep end and at the shallow end of every pool. Ladders and steps shall have nonslip treads.

(d) Walkways. Every pool shall have a walkway at least five feet wide around its entire perimeter. The walkway shall have a nonslip surface and be so constructed that it does not drain into the pool.

(e) Hand-holds. Every pool shall be constructed so that either the overflow gutter, if provided, or the top of the side walls afford a continuous hand-hold for bathers.

(f) Markings. Permanent markings showing the depth of the shallow end, break points, diving depth, and deep end shall be provided so as to be visible from both inside and outside the pool.

(g) Spectator area. Areas exclusively intended for spectators shall meet the applicable requirements of subchapter eight of this chapter for places of assembly.

(h) Diving boards and towers. Diving towers shall be rigidly constructed and permanently anchored. The depth of the water below a diving board shall be at least eight feet six inches for boards one meter (3.28 ft.) or less above the water. For diving boards more than one meter and not more than three meters (9 ft. 10 in.) above the water, the depth below the board shall be at least twelve feet. For diving boards or platforms more than three meters above the water, the depth below the board shall be at least sixteen feet. Indoor pools shall provide at least twelve feet overhead clearance above all diving boards.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-490

Administrative Code of the City of New York

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CHAPTER 1 BUILDING CODE

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ARTICLE 15 SWIMMING POOLS

§ 27-490 Dressing facilities.

Toilet rooms, shower rooms, and indoor dressing areas shall be constructed of nonabsorbent materials with smooth-finish walls and partitions. Floors shall have a nonslip surface impervious to moisture, free of cracks or open joints, and sloped to drains. The junctions between the side walls and floors shall be coved. Individual dressing rooms or cubicles within indoor dressing areas shall be excluded from the above requirements. Cabanas and dressing rooms that are not a part of any other occupancy shall also be excluded.

Toilets and showers. Toilets, lavatories, and showers, including piping, shall be provided in accordance with the requirements of subchapter sixteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.3 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-491

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ARTICLE 15 SWIMMING POOLS

§ 27-491 Ventilation and heating.

Indoor pools, dressing rooms, toilets, and shower rooms shall be ventilated in accordance with the requirements of subchapter twelve of this chapter. Unless used only between May first and October thirty-first, such spaces shall be heated in accordance with the requirements of subchapter twelve of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-492

Administrative Code of the City of New York

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ARTICLE 15 SWIMMING POOLS

§ 27-492 Water circulation, water treatment, and drainage.

The supply, circulation, treatment, and drainage of water for pools shall meet the requirements of subchapter sixteen of this chapter and the health code.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.5 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-493

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ARTICLE 15 SWIMMING POOLS

§ 27-493 Safety precautions.

(a) No overhead electrical conductors shall be installed within fifteen feet of any swimming pool. All metal fences, enclosures, or railings that might become electrically charged as a result of contact with broken overhead conductors or from any other cause near, or adjacent to, a swimming pool shall be grounded in accordance with the provisions of lightning protection in the electrical code of the city of New York.

(b) Every outdoor swimming pool, fish pond, or other pool greater than eighteen inches deep at any point shall be protected by an enclosure, barrier or other means adequate to make such pool inaccessible to small children which including gates thereto shall be at least four feet high above the adjacent ground.

All gates shall be self-latching with latches located at least four feet high above the ground or otherwise made inaccessible to small children from the outside.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-714.6 added LL 76/1968 § 1

Amended LL 6/1969 § 2

CASE NOTES

¶ 1. The statute does not provide for a private right of action against the City for failure to follow up on a complaint regarding a statutory violation (infant plaintiff, who was injured in a neighbor's swimming pool, claimed that the City failed to follow up on a complaint that the pool was being constructed without a permit. Bhandari v. Isis, 45 A.D.3d 619, 846 N.Y.S.2d 266, lv to appeal denied, 10 N.Y.3d 712, 861 N.Y.S.2d 273 (2008).

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NYC Administrative Code 27-493.1

Administrative Code of the City of New York

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ARTICLE 15 SWIMMING POOLS

§ 27-493.1 Facilities for people having physical disabilities.

Facilities for people having physical disabilities shall comply with the requirements of subarticle two of article two of subchapter four and of subchapter sixteen.

HISTORICAL NOTE

Section added L.L. 58/1987 § 16

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-494

Administrative Code of the City of New York

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ARTICLE 16 RADIO AND TELEVISION TOWERS

§ 27-494 Application.

This section shall apply to the construction, alteration, and use of radio and television towers on buildings. Radio and television receiving antennas more than twenty feet high above a roof shall be deemed to be such towers and shall be subject to the requirements of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-715.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-495

Administrative Code of the City of New York

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ARTICLE 16 RADIO AND TELEVISION TOWERS

§ 27-495 Location and access.

Towers shall be so located, and equipped with ladders or other devices, as to be readily accessible for inspection purposes. No guy wire or other accessories shall cross or encroach upon any street or pass over any electric power line.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-715.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-496

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ARTICLE 16 RADIO AND TELEVISION TOWERS

§ 27-496 Construction.

Towers located on the roofs of buildings shall be constructed of noncombustible materials. Isolated towers less than one hundred feet high and supported directly from the ground may, when located outside of the fire districts, be constructed of timber meeting the requirements of construction class II-A. All towers shall be grounded for lightning protection in accordance with the provisions of the electrical code of the city of New York.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-715.3 added LL 76/1968 § 1

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NYC Administrative Code 27-497

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ARTICLE 16 RADIO AND TELEVISION TOWERS

§ 27-497 Loads.

Towers shall be designed in accordance with the load requirements of subchapter nine of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-715.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-498

Administrative Code of the City of New York

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-498 Application.

This section shall apply to the construction, alteration, and use of all outdoor signs and display structures, together with their appurtenant and auxiliary devices.

(a) No sign may be hung or attached upon or on the outside of any building unless such work is performed by or under the supervision of a licensed sign hanger.

(b) No sign shall be erected until a permit therefor has been obtained from the commissioner in accordance with the provisions of article two of subchapter eleven of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.1 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-499

Administrative Code of the City of New York

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-499 Obstructions.

No sign shall be erected so as to obstruct free ingress to, or egress from, a required door, window, stairs, or other required exits, or be placed so as to prevent free passage from one part of a roof to any other part. No sign shall be attached in any manner to a fire escape or exterior stair, or placed so as to interfere with any opening for light or ventilation required under the provisions of subchapter twelve of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.2 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-500

Administrative Code of the City of New York

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-500 Ground signs.

(a) Location. No part of a ground sign shall be erected so as to project beyond the street line, except as specifically permitted by the provisions of subchapter four of this chapter.

(b) Materials. Inside the fire districts, ground signs shall be constructed entirely of noncombustible materials, except as permitted in sections 27-506 and 27-507 of this article. Outside the fire districts, the structure of ground signs exceeding twenty-five hundred square feet in facing or display area shall be constructed of noncombustible materials, and the facing of such signs shall be noncombustible, except as permitted in sections 27-506 and 27-507 of this article. The bottom of the facing of all ground signs shall be at least thirty inches above the ground, which space may be filled with open lattice work or decorative trim.

(c) Supports. Ground signs shall be constructed and anchored to resist loads acting in any direction on the sign, in accordance with the provisions of subchapter nine of this chapter.

(1) Anchors and supports shall be designed for safe bearing loads on the soil and for an effective resistance to pullout amounting to a force twenty-five per cent greater than the required resistance to overturning. Anchors and

supports shall penetrate to a depth of at least four feet.

(2) Whenever anchors or supports consist of wood embedded in the soil, the wood shall be treated under pressure as specified in subchapter eleven of this chapter before erection. This requirement shall not apply to signs which are not to remain in place for more than six months.

(3) Members furnishing structural support for signs shall be designed in accordance with the requirements of subchapter ten of this chapter, and shall be of adequate thickness to meet the corrosion conditions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.3 added LL 76/1968 § 1

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NYC Administrative Code 27-501

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-501 Wall signs.

(a) Limitations. Wall signs shall not extend beyond the top or ends of the wall surface on which they are placed unless meeting all the requirements of this code regulating roof signs, projecting signs, or ground signs as the case may be. Wall signs shall not project beyond street lines except as permitted in subchapter four of this chapter.

(b) Materials. Inside the fire districts, wall signs shall be constructed entirely of noncombustible materials except as permitted in sections 27-506 and 27-507 of this article. Outside the fire districts, the framework of wall signs exceeding five hundred square feet. in facing or display area shall be constructed of noncombustible materials, and the facing of such signs shall be noncombustible except as permitted in sections 27-506 and 27-507 of this article.

(c) Supports. Wall signs shall be constructed and supported to resist loads acting in any direction on the sign in accordance with the provisions of subchapter nine of this chapter. Attachment shall be by means of metal anchors, bolts, or similar devices. Wooden blocks or anchorage with wood used in connection with screws or nails shall not be used, except in the case of wall signs attached to buildings having walls of wood.

(d) Fire department access. Wall signs that are, or have been, erected to cover doors or windows required by this

code for fire department access to existing buildings shall be provided with access panels as required by section 27-292 of article two of subchapter four of this chapter. Existing wall signs shall be altered or otherwise arranged to comply with this requirement on or before December sixth, nineteen hundred seventy.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.4 added LL 76/1968 § 1

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NYC Administrative Code 27-502

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-502 Projecting signs.

(a) Location. Projecting signs, other than temporary signs, shall not be constructed on those streets and avenues listed in reference standard RS 7-2, and shall not be constructed to project beyond the street line except as permitted in subchapter four of this chapter.

(b) Limitations. Projecting signs whose width when measured at a plane parallel to the building wall, does not exceed two feet may extend not more than five feet above the main roof level of the building to which they are attached; except that for buildings thirty-five feet high or less, such projecting signs may be erected to a maximum height of forty feet above grade but in no case to a height of more than fifteen feet above the main roof level.

(c) Materials. All projecting signs shall be constructed of noncombustible materials except as permitted in sections 27-506 and 27-507 of this article.

(d) Supports. Projecting signs shall be constructed and supported to resist loads acting in any direction on the sign in accordance with the provisions of subchapter nine of this chapter. Attachment shall be by means of metal anchors, bolts, supports, chains, wire ropes, rods, or other similar devices. No staples or nails shall be used to secure any

projecting sign to any building. Turnbuckles or other equivalent means of adjustment shall be placed in all chains, wire ropes, or rods supporting or bracing projecting signs. All chains, wire ropes, or rods, and their attachments, shall be galvanized or of corrosion-resistant material, and no such supports shall be attached to an unbraced parapet wall.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.5 added LL 76/1968 § 1

NYC Administrative Code 27-503

Administrative Code of the City of New York

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§ 27-503 Roof signs.

(a) Location. Roof signs shall be set back a minimum of six feet from the face of the walls of the building on which they are erected.

(b) Materials. Inside the fire districts, roof signs shall be constructed entirely of noncombustible materials except as permitted in sections 27-506 and 27-507 of this article. Outside the fire districts, the framework of roof signs exceeding fifteen hundred square feet in facing or display area or having any part more than sixty-five feet above grade shall be constructed of noncombustible materials, and the facing of such signs shall be noncombustible, except as permitted in sections 27-506 and 27-507 of this article.

(c) Supports. Roof signs shall be constructed and anchored to resist loads acting in any direction on the sign in accordance with the provisions of subchapter nine of this chapter. Such signs shall be so constructed as to leave a clear space of at least seven feet between the roof and the lowest part of the sign, and at least five feet between the vertical supports thereof.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.6 added LL 76/1968 § 1

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§ 27-504 Marquee signs.

(a) Limitations. No part of a marquee sign shall project above or below the marquee fascia, except that in the case of theaters licensed under the provisions of subchapters one and three of chapter two of title twenty of the administrative code, marquee signs may project not more than eight feet above nor more than one foot below the fascia, provided that the total height of such signs does not exceed nine feet and the lowest part of such signs is at least ten feet above the ground or sidewalk level. Marquee signs may extend the full length of the marquee on all sides, but in no case shall they project beyond the ends of the marquee.

(b) Materials. All marquee signs shall be constructed of noncombustible materials except as permitted in sections 27-506 and 27-507 of this article.

(c) Supports. Construction and anchorage of marquee signs shall conform to the requirements for projecting signs under subdivision (d) of section 27-502 of this article.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.7 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-505

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-505 Illuminated signs.

General. All ground signs, wall signs, roof signs, projecting signs, and marquee signs may be lighted by internal or external sources when complying with the following requirements:

(1) ILLUMINATION. No sign shall be illuminated by other than electrical means. All wiring and accessory electrical equipment shall conform to the provisions of the electrical code of the city of New York.

(2) MATERIALS. Every illuminated sign shall be constructed of noncombustible materials except as permitted in section 27-507 of this article.

(3) PERMISSIBLE PROJECTIONS. Lighting reflectors may project beyond the top or face of all signs, provided that every part of such reflector is at least ten feet above the ground or sidewalk level. In no case shall such reflectors project beyond a vertical plane two feet inside the curb line. Reflectors shall be constructed, attached, and maintained so that they shall not be, or become, a hazard to the public.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.8 added LL 76/1968 § 1

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NYC Administrative Code 27-506

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-506 Temporary signs.

(a) Materials. Temporary signs not more than five hundred square feet in area may be constructed of combustible materials. Temporary signs more than one hundred square feet in area shall be made of rigid materials with rigid frames. Temporary signs shall be securely attached to their supports, and shall be removed as soon as they are torn or damaged, but in no case later than thirty days after their erection.

(b) Limitations. Temporary signs of combustible materials shall not extend more than one foot over, or into, a street, except that when permitted by the department of transportation, temporary banners or signs of combustible materials may be suspended from buildings or poles to extend across streets, and except that temporary signs of combustible materials constructed without a frame may be attached flat against, or suspended from the fascia of a canopy or marquee, provided that the lowest part of any such sign is at least nine feet above the ground or sidewalk level.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.9 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-507

Administrative Code of the City of New York

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-507 Use of combustible materials.

(a) General. In all signs required to be constructed of noncombustible materials under the provisions of this code, wood or other materials of combustible characteristics similar to wood may be used for moldings, cappings, trim, nailing blocks, letters, latticing, and other purely ornamental features.

(b) Slow-burning plastics. Slow-burning plastics may be used in sign construction subject to the following conditions and requirements.

(1) If all parts of the sign other than the letters and decorations are made from noncombustible materials, the display surface or sign facing may be made of slow-burning plastic, or may be occupied or covered by letters and decorations made from, or faced with, slow-burning plastics not exceeding a total area calculated from the values given in tables 7-2 and 7-3.

[See tabular material in printed version]

(2) If combustible materials are permitted in the framework, moldings, cappings, trim, nailing blocks, latticing

or other parts of the sign, the display surface or sign facing may be occupied or covered by letters and decorations made from or faced with slow-burning plastics not exceeding a total area calculated from the values given in tables 7-4 and 7-5.

[See tabular material in printed version]

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.10 added LL 76/1968 § 1

Administrative Code of the City of New York

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NYC Administrative Code 27-508

Administrative Code of the City of New York

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ARTICLE 17 OUTDOOR SIGNS AND DISPLAY STRUCTURES

§ 27-508 Maintenance and inspection.

(a) Maintenance. All signs, together with all supports, braces, guys, and anchors, shall be kept in good repair at all times, and when not adequately galvanized or constructed of corrosion-resistant materials, shall be painted periodically to prevent corrosion. It shall be the duty and responsibility of the owner or lessee of every sign to maintain the immediate premises occupied by the sign in a safe, clean, sanitary, and inoffensive condition and free and clear of all obnoxious substances.

(b) Annual inspection. Every sign for which a permit is required shall be inspected at least once in every calendar year.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-716.11 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-508.1

Administrative Code of the City of New York

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ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.1 Short title.

This article shall be known and may be cited as the "Youth Protection Against Tobacco Advertising and Promotion Act."

HISTORICAL NOTE

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA), 15 U.S.C. Sec. 1334(b). The section states that no requirement or prohibition based on smoking and health shall be imposed under state law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this federal law. The court invalidated the "tombstone" provision of the city law, which limited advertising information in the restricted areas to black-and-white signs stating "tobacco products sold here." The law prohibited colors, non-textual images and non-conforming images, as being pre-empted by the

FCLAA. However, the court upheld provisions of the city law which prohibited most outdoor advertising, and some indoor advertising, within 1000 feet of certain facilities such as schools and youth centers. The federal law did not pre-empt the city from enacting the 1000-feet rule, which does not impose format and content restrictions and does not require warning labels, but merely restricts the locations in which cigarette advertising signs can be placed. The 1000-rule, according to the court, is just a variation on a "run of the mill zoning regulation." Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

18

[Footnote 18]: * Note: Article added L.L. 3/1998, note provisions of L.L. 3/1998 § 1:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that certain tobacco product manufacturers have admitted engaging in strategies designed to advertise and promote tobacco products to minors and that such strategies undermine state and local laws prohibiting the sale or distribution of tobacco products to minors. The Council further finds that the exposure of minors to such tobacco product advertising and promotion may be constitutionally restricted through reasonable targeted limitations on the advertising of such products near schools and other locations where children tend to congregate, and through a prohibition on the offering of promotions to persons under the age of eighteen. Thereby, the Council intends to strengthen compliance with and enforcement of laws prohibiting the sale or distribution of tobacco products to children and to protect children against such illegal sales.

Although the rate of smoking among adults nationwide decreased by 50% between 1971 and 1993, the federal Centers for Disease Control and Prevention have reported that the rate of smoking among all high school students during the years 1991 through 1996 increased by over 26% and now stands at its highest rate since 1981. This dramatic increase in teenage smoking has occurred while all fifty states and the District of Columbia have had prohibitions in effect on the sale or distribution of cigarettes and other tobacco products to minors and while all tobacco product manufacturers were pledged to adhere to a voluntary industry code prohibiting advertisement of tobacco products that appeal to or influence minors. In New York City, under section 17-620 of the Administrative Code of the City of New York, section 1399-cc of the State Public Health Law and section 260.20 of the State Penal Law, it is illegal to sell tobacco products to a minor.

It has also been reported that nearly 90% of all smokers begin to smoke prior to the age of 18 and that the average child smoker starts daily smoking by the age of 14. Between 1991 and 1996 the rate of smoking among Hispanic high school students nationwide reportedly increased by over 34% while, during the same period, the rate of smoking among African-American high school students nationwide increased by over 48%; these rates of increased smoking are the highest in a decade. In New York City, as reported by the Department of Consumer Affairs, 200 children begin to smoke every day.

Similarly, a 1994 report by the United States Surgeon General containing data on the use of smokeless tobacco by minors reported that the market for smokeless tobacco had shifted dramatically toward young people since 1970. That report cited school-based surveys conducted in 1991 which estimated that 19.2% of ninth to twelfth grade boys use smokeless tobacco. Among high school seniors who had ever tried smokeless tobacco, the report said that 73% did so by the ninth grade.

A December 1995 investigative report, prepared for the Speaker of the Council and the Council's Youth Services Committee concerning the availability of beer and cigarettes to New York City minors and entitled **Easy Access,** found, **inter alia,** that "cigarettes are widely accessible to minors throughout New York City;" that

minors participating in the investigation "successfully purchased cigarettes in 79 percent of all attempted cases;" and that "less than one out of five stores asked minors who purchased cigarettes for proof of age." The **Easy Access** report cited a 1992 Journal of the American Medical Association (JAMA) article entitled "Brand Logo Recognition by Children Aged 3 to 6 Years" which demonstrated that 30 percent of the three year olds and 91 percent of the six year olds surveyed could correctly match the Joe Camel cartoon trademark with Camel cigarettes. The **Easy Access** Report also referred to a 1991 JAMA report entitled "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children" which estimated that illegal sales of Camel cigarettes to minors rose from $6 million per year before the advent of Joe Camel in 1988, to $476 million by the end of 1991. The 1991 JAMA report concluded that one-quarter of all Camel sales in 1991 were to minors.

In May 1996, the City Department of Consumer Affairs, joined by the Chair of the Council's Youth Services Committee, announced the results of a citywide enforcement program against tobacco product retailers who violated the law by selling tobacco products to minors. This citywide enforcement program, denoted **Three Puffs and You're Out,** was, at least in part, motivated by the Council's **Easy Access** investigative report discussed above. Two hundred tobacco retailers were targeted by this enforcement program. One-year suspensions of their tobacco retailer licenses were imposed on seventeen retailers who illegally sold tobacco products to minors three times during the preceding two years. Ninety-three of the retailers targeted for enforcement were found to be illegally selling cigarettes to minors, thirty-one of the retailers targeted for enforcement were illegally selling loose cigarettes to minors and thirty-six of the retailers targeted for enforcement had failed to post the required sign indicating that tobacco sales to minors are prohibited by local law.

A 1991 JAMA study concluded that "cigarette advertising encourages youth to smoke and should be banned." In a 1994 report, the National Institute of Medicine stated that "the substantial convergent evidence that advertising and promotion increase tobacco use by youths is impressive and, in the Committee's view, provides a strong basis for legal regulation." Similarly, a 1995 report by the federal Centers for Disease Control and Prevention found that "cigarette marketing practices appeared to be the most likely to account for [the] increase in teen smoking initiation rates."

The federal Department of Health and Human Services' Food and Drug Administration (FDA) recently reported that "[i]n 1993, the tobacco industry spent a total of $6.2 billion on the advertising, promotion and marketing of cigarettes and smokeless tobacco. Of that number, 31 percent ($1.9 billion) was spent on advertising and promotional activities, 26 percent ($1.6 billion) was given to retailers in the form of cash allowances or retailer items to facilitate and enhance the sale of tobacco products, and, finally, 43 percent ($2.6 billion) was in the form of financial incentives (e.g. coupons, cents off, buy one/get one free, free samples) to consumers."

In announcing its final rules on the advertising and promotion of tobacco products, published in the Federal Register on August 28, 1996, the FDA commented upon the nexus between advertising and promotion and smoking among minors. The FDA observed that "the images typically associated with advertising and promotion convey the message that tobacco use is a desirable, socially approved, safe and healthful, and widely practiced behavior among young adults, whom children and youths want to emulate. As a result, tobacco advertising and promotion undoubtedly contribute to the multiple and convergent psychosocial influences that lead children and youths to begin using these products and become addicted to them." In that same announcement on its final rules on advertising and promotion of tobacco products, the FDA discussed the issue of federal preemption of state and local restrictions. The FDA specifically stated that it "believes the requirements it is establishing in this final rule set an appropriate floor for regulation of youth access to tobacco products but do not, as a policy matter, reflect a judgment that more stringent State or local requirements are inappropriate."

On March 20, 1997, as part of a settlement agreement signed by the Attorneys General of 17 states,

including New York State, and Liggett & Myers Inc. and the Brooke Group, Ltd., cigarette manufacturers, the following statement was among those made by and on behalf of Liggett & Myers: "Liggett acknowledges that the tobacco industry markets to `youth', which means those under 18 years of age. . . ."

In light of the foregoing evidence that cigarettes are advertised and promoted to minors and that smoking by minors continues to dramatically increase despite laws banning the sale or distribution of tobacco products to minors, the Council of the City of New York finds and declares that affirmative, reasonable and constitutionally permissible restrictions on tobacco product advertising and promotion may and must be enacted.

The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

It is well settled law that the First Amendment protects commercial speech but to a lesser degree than the protection afforded other, "fully protected speech." In analyzing the constitutionality of commercial speech regulation, the United States Supreme Court prescribed a four-prong test in **Central Hudson Gas & Electric Corporation v. Public Service Commission of New York,** 447 U.S. 557 (1980). The **Central Hudson** test, which subsequent decisions have ratified and clarified, provides that government restrictions on commercial speech are lawful where: (1) the commercial speech at issue concerns a lawful activity and is not misleading; (2) the asserted governmental interest in restricting the commercial speech is substantial; (3) the restriction directly advances the governmental interest asserted; and (4) the restrictions are not more extensive than necessary to serve that governmental interest. The latter two requirements involve a determination that there is a reasonable "fit" between the government's ends and the means chosen to accomplish these ends. **Board of Trustees of State Univ. of New York v. Fox,** 492 U.S. 469, 480 (1989); **see also, United States v. Edge Broadcasting Co.,** 509 U.S. 418 (1993).

The restrictions on commercial speech contained in this Council legislation are permissible under the **Central Hudson** four-prong test. The commercial speech at issue concerns a lawful activity and is not misleading, at least as it applies to consenting adults. The governmental interest in restricting the commercial speech at issue is one grounded in the pre-existing prohibition on the sale and distribution of tobacco products to minors and is geared directly towards countering the adverse impacts of an industry strategy admittedly directed at younger prospective smokers. By restricting the locations for advertisements that are more likely to be addressed to and most likely to be seen by minors, specifically to 1,000 feet from schools, child day care centers and the like, while still permitting tobacco product sellers to notify their customers that such products are available for purchase with a single tombstone advertisement which may be written in any language, this Council legislation directly advances the governmental interest in enforcing the ban on the sale or distribution of tobacco products to minors. Similarly, by permitting tobacco product promotions to be offered and/or given to anyone of lawful age to purchase cigarettes, this Council legislation restricts only promotions designed to induce children to purchase cigarettes. Finally, as the restrictions in this Council legislation focus on modes and locations of communication that are most likely to have a direct impact upon minors, the restrictions contained in this Council legislation strike a balance between the commercial interest in selling tobacco products to persons of lawful age and the need to limit inducements to children who cannot lawfully purchase such products but are nonetheless doing so. Thus, the Council legislation is not more extensive than necessary to serve the governmental interests asserted herein. Other forms of advertising including newspapers, magazines, audio and

video media, that are less likely to have a direct impact on minors, and all promotions directed to adults are not affected by this Council legislation. Moreover, street advertisements not within 1,000 feet of a school, child day care center, youth center, amusement arcade or playground, which can readily reach an adult population, are not affected by this Council legislation.

In **Penn Advertising of Baltimore v. Baltimore,** 101 F.3d 325 (4th Cir. 1995), the United States Court of Appeals for the Fourth Circuit upheld a Baltimore city ordinance which prohibited advertising cigarettes in a publicly visible location against challenges grounded in the First Amendment to the United States Constitution and federal preemption. The court held that the Baltimore city ordinance is not preempted by the Federal Cigarette Labeling and Advertising Act, which prohibits local enactments based on smoking and health with respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test. Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

The Council's legislation likewise only limits the locations where tobacco product advertisements may be placed. It addresses neither the location of advertising directed at adults nor the content thereof. As with the Baltimore cigarette ordinance, the Council's legislation neither imposes a duty on tobacco product manufacturers nor relieves a burden otherwise placed upon them related to smoking and health.

Ruling on another city ordinance that closely parallels this Council's legislation, on November 13, 1996, the United States Court of Appeals for the Fourth Circuit upheld against First Amendment attack legislation enacted in the City of Baltimore prohibiting placement of stationary outdoor advertising of alcoholic beverages in areas where it was likely to be encountered by minors traveling to school or play. The Baltimore ordinance targeted individuals who could not legally purchase alcoholic beverages. This Council's legislation similarly targets minors who may not legally purchase cigarettes. Neither this legislation nor the Baltimore ordinance were directed toward or intended to affect adults who may legally purchase cigarettes and alcoholic beverages respectively. Neither this legislation nor the Baltimore ordinance bans all outdoor advertising of cigarettes and alcoholic beverages respectively. Instead, as did the Baltimore ordinance, this legislation merely restricts the time, place and manner of such advertisements.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-508.2

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.2 Definitions.

For the purposes of this article, the following terms shall be defined as follows:

a. "Amusement arcade" means any enclosed business establishment, open to the public, whose primary purpose is the operation of coin-operated amusement devices within the meaning of subchapter three of chapter two of title 20 of this code.

b. "Child day care center" means (i) any child care arrangement, public, private or parochial child care center, school-age child care program, day nursery school, kindergarten, play school or other similar school or service operating pursuant to authorization, license or permit of the city or state, (ii) any facility that provides child care services as defined in section four hundred ten-p of the New York state social services law, or (iii) any child day care center as defined in section three hundred ninety of the New York state social services law. The definition of "child day care center" applies whether or not care is given for compensation but does not include child day care centers located in private dwellings and multiple dwelling units.

c. "Cigarette" means any product which consists of (i) any roll of tobacco wrapped in paper or in any substance

not containing tobacco or (ii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is offered for use or purchase by consumers as a cigarette described in (i) of this subdivision.

d. "Cigarette tobacco" means any product that consists of loose tobacco and is intended for use by consumers in a cigarette.

e. "Multiple dwelling" means any building or structure that may lawfully be occupied as the residence or home of three or more families living independently of each other.

f. "Multiple dwelling unit" means any unit of residential accommodation in a multiple dwelling.

g. "Person" means any natural person, partnership, co-partnership, firm, company, corporation, limited liability corporation, agency as defined in section eleven-hundred fifty of the New York city charter, association, joint stock association or other legal entity.

h. "Playground" means any outdoor premises or grounds owned or lawfully operated by or on behalf of, the board of education, the department of parks and recreation, or any public, private or parochial school, any child day care center or any youth center, which contains any device, structure or implement, fixed or portable, used or intended to be used by persons under the age of eighteen for recreational or athletic purposes including, but not limited to, play equipment such as a sliding board, swing, jungle gym, sandbox, climbing bar, wading pool, obstacle course, swimming pool, seesaw, baseball diamond, athletic field, or basketball court.

i. "Private dwelling" means any building or structure or portion thereof that may lawfully be occupied for residential purposes by not more than two families, including the grounds of such building or structure.

j. "School building" means any building or structure or any portion thereof, owned, occupied by, or under the custody or control of any public, private or parochial institution and lawfully used for the primary purpose of providing educational instruction to students at or below the twelfth grade level.

k. "Smokeless tobacco" means any product that consists of cut, ground, powdered, or leaf tobacco that is intended to be placed by the consumer in an oral cavity.

l. "Tobacco product" means a cigarette, smokeless tobacco or cigarette tobacco.

m. "Tobacco product advertisement" means any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of tobacco product, or any combination thereof, the purpose or effect of which is to promote the use or sale of a tobacco product through such means as, but not limited to, the identification of a brand of a tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product.

n. "Tobacco product promotion" means (i) any item or service marketed, licensed, sold or distributed, whether indoors or outdoors, which is not a tobacco product but which bears the brand of a tobacco product, a trademark of a tobacco product or a trade name associated exclusively with a tobacco product, alone or in conjunction with any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with those used for any brand of a tobacco product, or (ii) any gift or item other than a tobacco product offered or caused to be offered to any person purchasing a tobacco product in consideration of the purchase thereof, or to any person in consideration of furnishing evidence, such as credits, proofs-of-purchase, or coupons, of such purchase; provided, however, that a tobacco product promotion shall not include any gift or item provided through the exchange or redemption through the mail of any such credits, proofs-of-purchase, coupons or other evidence of the

purchase of a tobacco product.

o. "Youth center" means any building or structure or portion thereof, lawfully occupied by any person for the primary purpose of operating a trade school (including those conducting after-school, vocational, remedial, tutorial, educational assistance programs) or an indoor recreational center (including recreational, cultural, physical fitness, or sports programs) for persons under the age of eighteen years, and which has been certified as such to the department in accordance with the procedure to be set by the department. Such certification shall be accepted by the department but nothing in this subdivision shall prevent the commissioner from removing a certified youth center from consideration as a youth center if she or he determines it does not meet the criteria of a youth center.

HISTORICAL NOTE

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA). Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

18

[Footnote 18]: * Note: Article added L.L. 3/1998, note provisions of L.L. 3/1998 § 1:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that certain tobacco product manufacturers have admitted engaging in strategies designed to advertise and promote tobacco products to minors and that such strategies undermine state and local laws prohibiting the sale or distribution of tobacco products to minors. The Council further finds that the exposure of minors to such tobacco product advertising and promotion may be constitutionally restricted through reasonable targeted limitations on the advertising of such products near schools and other locations where children tend to congregate, and through a prohibition on the offering of promotions to persons under the age of eighteen. Thereby, the Council intends to strengthen compliance with and enforcement of laws prohibiting the sale or distribution of tobacco products to children and to protect children against such illegal sales.

Although the rate of smoking among adults nationwide decreased by 50% between 1971 and 1993, the federal Centers for Disease Control and Prevention have reported that the rate of smoking among all high school students during the years 1991 through 1996 increased by over 26% and now stands at its highest rate since 1981. This dramatic increase in teenage smoking has occurred while all fifty states and the District of Columbia have had prohibitions in effect on the sale or distribution of cigarettes and other tobacco products to minors and while all tobacco product manufacturers were pledged to adhere to a voluntary industry code prohibiting advertisement of tobacco products that appeal to or influence minors. In New York City, under section 17-620 of the Administrative Code of the City of New York, section 1399-cc of the State Public Health Law and section 260.20 of the State Penal Law, it is illegal to sell tobacco products to a minor.

It has also been reported that nearly 90% of all smokers begin to smoke prior to the age of 18 and that the average child smoker starts daily smoking by the age of 14. Between 1991 and 1996 the rate of smoking among Hispanic high school students nationwide reportedly increased by over 34% while, during the same period, the rate of smoking among African-American high school students nationwide increased by over 48%; these rates of increased smoking are the highest in a decade. In New York City, as reported by the Department of Consumer

Affairs, 200 children begin to smoke every day.

Similarly, a 1994 report by the United States Surgeon General containing data on the use of smokeless tobacco by minors reported that the market for smokeless tobacco had shifted dramatically toward young people since 1970. That report cited school-based surveys conducted in 1991 which estimated that 19.2% of ninth to twelfth grade boys use smokeless tobacco. Among high school seniors who had ever tried smokeless tobacco, the report said that 73% did so by the ninth grade.

A December 1995 investigative report, prepared for the Speaker of the Council and the Council's Youth Services Committee concerning the availability of beer and cigarettes to New York City minors and entitled **Easy Access,** found, **inter alia,** that "cigarettes are widely accessible to minors throughout New York City;" that minors participating in the investigation "successfully purchased cigarettes in 79 percent of all attempted cases;" and that "less than one out of five stores asked minors who purchased cigarettes for proof of age." The **Easy Access** report cited a 1992 Journal of the American Medical Association (JAMA) article entitled "Brand Logo Recognition by Children Aged 3 to 6 Years" which demonstrated that 30 percent of the three year olds and 91 percent of the six year olds surveyed could correctly match the Joe Camel cartoon trademark with Camel cigarettes. The **Easy Access** Report also referred to a 1991 JAMA report entitled "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children" which estimated that illegal sales of Camel cigarettes to minors rose from $6 million per year before the advent of Joe Camel in 1988, to $476 million by the end of 1991. The 1991 JAMA report concluded that one-quarter of all Camel sales in 1991 were to minors.

In May 1996, the City Department of Consumer Affairs, joined by the Chair of the Council's Youth Services Committee, announced the results of a citywide enforcement program against tobacco product retailers who violated the law by selling tobacco products to minors. This citywide enforcement program, denoted **Three Puffs and You're Out,** was, at least in part, motivated by the Council's **Easy Access** investigative report discussed above. Two hundred tobacco retailers were targeted by this enforcement program. One-year suspensions of their tobacco retailer licenses were imposed on seventeen retailers who illegally sold tobacco products to minors three times during the preceding two years. Ninety-three of the retailers targeted for enforcement were found to be illegally selling cigarettes to minors, thirty-one of the retailers targeted for enforcement were illegally selling loose cigarettes to minors and thirty-six of the retailers targeted for enforcement had failed to post the required sign indicating that tobacco sales to minors are prohibited by local law.

A 1991 JAMA study concluded that "cigarette advertising encourages youth to smoke and should be banned." In a 1994 report, the National Institute of Medicine stated that "the substantial convergent evidence that advertising and promotion increase tobacco use by youths is impressive and, in the Committee's view, provides a strong basis for legal regulation." Similarly, a 1995 report by the federal Centers for Disease Control and Prevention found that "cigarette marketing practices appeared to be the most likely to account for [the] increase in teen smoking initiation rates."

The federal Department of Health and Human Services' Food and Drug Administration (FDA) recently reported that "[i]n 1993, the tobacco industry spent a total of $6.2 billion on the advertising, promotion and marketing of cigarettes and smokeless tobacco. Of that number, 31 percent ($1.9 billion) was spent on advertising and promotional activities, 26 percent ($1.6 billion) was given to retailers in the form of cash allowances or retailer items to facilitate and enhance the sale of tobacco products, and, finally, 43 percent ($2.6 billion) was in the form of financial incentives (e.g. coupons, cents off, buy one/get one free, free samples) to consumers."

In announcing its final rules on the advertising and promotion of tobacco products, published in the Federal Register on August 28, 1996, the FDA commented upon the nexus between advertising and promotion and smoking among minors. The FDA observed that "the images typically associated with advertising and

promotion convey the message that tobacco use is a desirable, socially approved, safe and healthful, and widely practiced behavior among young adults, whom children and youths want to emulate. As a result, tobacco advertising and promotion undoubtedly contribute to the multiple and convergent psychosocial influences that lead children and youths to begin using these products and become addicted to them." In that same announcement on its final rules on advertising and promotion of tobacco products, the FDA discussed the issue of federal preemption of state and local restrictions. The FDA specifically stated that it "believes the requirements it is establishing in this final rule set an appropriate floor for regulation of youth access to tobacco products but do not, as a policy matter, reflect a judgment that more stringent State or local requirements are inappropriate."

On March 20, 1997, as part of a settlement agreement signed by the Attorneys General of 17 states, including New York State, and Liggett & Myers Inc. and the Brooke Group, Ltd., cigarette manufacturers, the following statement was among those made by and on behalf of Liggett & Myers: "Liggett acknowledges that the tobacco industry markets to `youth', which means those under 18 years of age. . . ."

In light of the foregoing evidence that cigarettes are advertised and promoted to minors and that smoking by minors continues to dramatically increase despite laws banning the sale or distribution of tobacco products to minors, the Council of the City of New York finds and declares that affirmative, reasonable and constitutionally permissible restrictions on tobacco product advertising and promotion may and must be enacted.

The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

It is well settled law that the First Amendment protects commercial speech but to a lesser degree than the protection afforded other, "fully protected speech." In analyzing the constitutionality of commercial speech regulation, the United States Supreme Court prescribed a four-prong test in **Central Hudson Gas & Electric Corporation v. Public Service Commission of New York,** 447 U.S. 557 (1980). The **Central Hudson** test, which subsequent decisions have ratified and clarified, provides that government restrictions on commercial speech are lawful where: (1) the commercial speech at issue concerns a lawful activity and is not misleading; (2) the asserted governmental interest in restricting the commercial speech is substantial; (3) the restriction directly advances the governmental interest asserted; and (4) the restrictions are not more extensive than necessary to serve that governmental interest. The latter two requirements involve a determination that there is a reasonable "fit" between the government's ends and the means chosen to accomplish these ends. **Board of Trustees of State Univ. of New York v. Fox,** 492 U.S. 469, 480 (1989); **see also, United States v. Edge Broadcasting Co.,** 509 U.S. 418 (1993).

The restrictions on commercial speech contained in this Council legislation are permissible under the **Central Hudson** four-prong test. The commercial speech at issue concerns a lawful activity and is not misleading, at least as it applies to consenting adults. The governmental interest in restricting the commercial speech at issue is one grounded in the pre-existing prohibition on the sale and distribution of tobacco products to minors and is geared directly towards countering the adverse impacts of an industry strategy admittedly directed at younger prospective smokers. By restricting the locations for advertisements that are more likely to be addressed to and most likely to be seen by minors, specifically to 1,000 feet from schools, child day care centers

and the like, while still permitting tobacco product sellers to notify their customers that such products are available for purchase with a single tombstone advertisement which may be written in any language, this Council legislation directly advances the governmental interest in enforcing the ban on the sale or distribution of tobacco products to minors. Similarly, by permitting tobacco product promotions to be offered and/or given to anyone of lawful age to purchase cigarettes, this Council legislation restricts only promotions designed to induce children to purchase cigarettes. Finally, as the restrictions in this Council legislation focus on modes and locations of communication that are most likely to have a direct impact upon minors, the restrictions contained in this Council legislation strike a balance between the commercial interest in selling tobacco products to persons of lawful age and the need to limit inducements to children who cannot lawfully purchase such products but are nonetheless doing so. Thus, the Council legislation is not more extensive than necessary to serve the governmental interests asserted herein. Other forms of advertising including newspapers, magazines, audio and video media, that are less likely to have a direct impact on minors, and all promotions directed to adults are not affected by this Council legislation. Moreover, street advertisements not within 1,000 feet of a school, child day care center, youth center, amusement arcade or playground, which can readily reach an adult population, are not affected by this Council legislation.

In **Penn Advertising of Baltimore v. Baltimore,** 101 F.3d 325 (4th Cir. 1995), the United States Court of Appeals for the Fourth Circuit upheld a Baltimore city ordinance which prohibited advertising cigarettes in a publicly visible location against challenges grounded in the First Amendment to the United States Constitution and federal preemption. The court held that the Baltimore city ordinance is not preempted by the Federal Cigarette Labeling and Advertising Act, which prohibits local enactments based on smoking and health with respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test. Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

The Council's legislation likewise only limits the locations where tobacco product advertisements may be placed. It addresses neither the location of advertising directed at adults nor the content thereof. As with the Baltimore cigarette ordinance, the Council's legislation neither imposes a duty on tobacco product manufacturers nor relieves a burden otherwise placed upon them related to smoking and health.

Ruling on another city ordinance that closely parallels this Council's legislation, on November 13, 1996, the United States Court of Appeals for the Fourth Circuit upheld against First Amendment attack legislation enacted in the City of Baltimore prohibiting placement of stationary outdoor advertising of alcoholic beverages in areas where it was likely to be encountered by minors traveling to school or play. The Baltimore ordinance targeted individuals who could not legally purchase alcoholic beverages. This Council's legislation similarly targets minors who may not legally purchase cigarettes. Neither this legislation nor the Baltimore ordinance were directed toward or intended to affect adults who may legally purchase cigarettes and alcoholic beverages respectively. Neither this legislation nor the Baltimore ordinance bans all outdoor advertising of cigarettes and alcoholic beverages respectively. Instead, as did the Baltimore ordinance, this legislation merely restricts the time, place and manner of such advertisements.

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.3 Tobacco product advertisement restriction.

a. It shall be unlawful for any person to place, cause to be placed, to maintain or to cause to be maintained, a tobacco product advertisement within one thousand feet, in any direction, of any school building, playground, child day care center, amusement arcade or youth center, in any outdoor area including, but not limited to, billboards, roofs and sides of buildings, rolling shutters or gates, any enclosures into which rolling shutters or gates retract, water tanks and towers and free-standing signboards; provided, however, that any tobacco product advertisement on an awning projecting from the outside of a premises as of July 1, 1997 where tobacco products are sold or offered for sale may be retained until two years from the effective date of this law.

b. It shall be unlawful for any person to place, cause to be placed, to maintain, or cause to be maintained, a tobacco product advertisement in the interior of a building or structure which is within one thousand feet, in any direction, of any school building, playground, child day care center, amusement arcade or youth center, when such advertisement is within five feet of any exterior window or any door which is used for entry or egress by the public to the building or structure; provided, however, that tobacco product advertisements may be placed or maintained in the interior of any such premises where such advertisements are (i) parallel to the street and face inward, or (ii) affixed to a wall panel or similar fixture that is perpendicular to the street regardless of whether such advertisements are illuminated

or not illuminated.

c. Nothing in this section shall prevent a person from placing, causing to be placed, maintaining, or causing to be maintained, a single sign, poster, placard or label no larger than six square feet and containing only black text, in any language, not exceeding eight inches in height on a white background stating "TOBACCO PRODUCTS SOLD HERE" or such words translated into any language, within ten feet of an entrance to the premises where tobacco products are sold or offered for sale.

d. Nothing in this section shall prevent a tobacco product manufacturer, distributor or retailer from placing, causing to be placed, maintaining or causing to be maintained, its corporate or other business name on a building or structure, in any location, where such building or structure or a portion thereof is owned, operated or leased by such manufacturer, distributor or retailer and that building or structure is the principal place of business of such manufacturer, distributor or retailer in the city of New York; provided, however, that the corporate or other business name of such manufacturer, distributor or retailer is registered or filed in the United States or such manufacturer, distributor or retailer is authorized to do business in any state, and the corporate or business name of such manufacturer, distributor or retailer does not include any brand name or trademark of a tobacco product, alone or in conjunction with any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of a tobacco product.

e. This section shall not apply to any tobacco product advertisement on a motor vehicle. Nothing in this subdivision shall be construed to authorize the placement of a tobacco product advertisement in a location where such placement is otherwise prohibited by the rules of the department of transportation or other applicable law.

HISTORICAL NOTE

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted*33 by the Federal Cigarette Labeling and Advertising Act (FCLAA). Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

¶ 2. In 1998, New York City enacted Local Law No. 3, entitled the "Youth Protection Against Tobacco Advertising and Promotion Act, which was codified as Article 17-A to Title 27, Chapter 7, subchapter 7, of the Administrative Code, Secs. 27-508.1 to 27-508.6. The law prohibits most outdoor advertising of tobacco products within 1,000 feet of any school building, playground, child care day center, amusement arcade or youth center. It also prohibits most indoor advertising in the same areas if the advertisements can be seen from the street. There is one exception to the ban-a single, black-and-white, text-only "tombstone" sign stating "TOBACCO PRODUCTS SOLD HERE," may be placed within ten feet of an entrance to a store where tobacco products are sold. A group of supermarkets and advertising associations brought suit, alleging that Article 17-A was pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA), 15 U.S.C. 1331 et seq., and therefore violated the Supremacy Clause of the U.S. Constitution. The District Court found that Article 17-A was pre-empted by the FCLAA's pre-emption provision, which stated that "No requirement or prohibition based on smoking and health shall be imposed under state law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter" (15 U.S.C. Sec. 1334(b)). In effect, the District Court held that the federal statute on its face called for pre-emption, and that there was no need to look into the intent of Congress in enacting the provision. However, the Second Circuit (hereinafter called "court") took a different approach, and looked into the intent of Congress. The court said that the pre-emption provision had to be analyzed in the context of the rest of the statute. 15 USC Sec. 1331 explained the intent of the federal law as follows:

"It is the policy of Congress, and the purpose of this chapter, to establish a comprehensive Federal program to

deal with cigarette labeling and advertising with respect to the relationship between smoking and healt, whereby: (1) the public may be adequately informed about any adverse health effects of cigarette smoking by inclusion of warning notices on each package of cigarettes and in each advertisement of cigarettes; and (2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, non-uniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health."

Looking at the above language, the court said that the intent of Congress was to inform the public about the health dangers of smoking by regulating advertising and labeling information. Second, expressing the concern about non-uniform and confusing advertising standards, Congress reserved for itself the power to regulate cigarette advertising information.

The court next looked at the tombstone provision. The City argued that it was not-preempted because the tombstone provision was "permissive" in the sense that it **allowed** certain types of advertising, but the court rejected that contention. The City argued that the purpose of its law was to promote law enforcement in general, not to regulate cigarette advertising, so that the City law did not run afoul of the federal statute. The court, however, said that where there is federal pre-emption, municipalities cannot frustrate the purpose of the federal law merely by making up some pretext legislative purpose. No matter what purpose the City declared, the actual intent of the City law was to regulate smoking and health. Since the tombstone provision regulated the **content** of cigarette advertising, it was pre-empted by federal law.

However, the court found that the rest of the law was **not** pre-empted by the federal law, because it regulated only the location and not the content of cigarette advertising. The 1000-foot provision is more like a real estate zoning law than an advertising regulation.

Since Article 17-A expressly provides that if any portion of the law is held to be invalid, the rest of it survives, the court struck the tombstone provision from the law and left the rest of it intact. Greater New York Metropolitan Food Council v. Advertising Freedom Coalition, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

18

[Footnote 18]: * Note: Article added L.L. 3/1998, note provisions of L.L. 3/1998 § 1:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that certain tobacco product manufacturers have admitted engaging in strategies designed to advertise and promote tobacco products to minors and that such strategies undermine state and local laws prohibiting the sale or distribution of tobacco products to minors. The Council further finds that the exposure of minors to such tobacco product advertising and promotion may be constitutionally restricted through reasonable targeted limitations on the advertising of such products near schools and other locations where children tend to congregate, and through a prohibition on the offering of promotions to persons under the age of eighteen. Thereby, the Council intends to strengthen compliance with and enforcement of laws prohibiting the sale or distribution of tobacco products to children and to protect children against such illegal sales.

Although the rate of smoking among adults nationwide decreased by 50% between 1971 and 1993, the federal Centers for Disease Control and Prevention have reported that the rate of smoking among all high school students during the years 1991 through 1996 increased by over 26% and now stands at its highest rate since 1981. This dramatic increase in teenage smoking has occurred while all fifty states and the District of Columbia have had prohibitions in effect on the sale or distribution of cigarettes and other tobacco products to minors and

while all tobacco product manufacturers were pledged to adhere to a voluntary industry code prohibiting advertisement of tobacco products that appeal to or influence minors. In New York City, under section 17-620 of the Administrative Code of the City of New York, section 1399-cc of the State Public Health Law and section 260.20 of the State Penal Law, it is illegal to sell tobacco products to a minor.

It has also been reported that nearly 90% of all smokers begin to smoke prior to the age of 18 and that the average child smoker starts daily smoking by the age of 14. Between 1991 and 1996 the rate of smoking among Hispanic high school students nationwide reportedly increased by over 34% while, during the same period, the rate of smoking among African-American high school students nationwide increased by over 48%; these rates of increased smoking are the highest in a decade. In New York City, as reported by the Department of Consumer Affairs, 200 children begin to smoke every day.

Similarly, a 1994 report by the United States Surgeon General containing data on the use of smokeless tobacco by minors reported that the market for smokeless tobacco had shifted dramatically toward young people since 1970. That report cited school-based surveys conducted in 1991 which estimated that 19.2% of ninth to twelfth grade boys use smokeless tobacco. Among high school seniors who had ever tried smokeless tobacco, the report said that 73% did so by the ninth grade.

A December 1995 investigative report, prepared for the Speaker of the Council and the Council's Youth Services Committee concerning the availability of beer and cigarettes to New York City minors and entitled **Easy Access,** found, **inter alia,** that "cigarettes are widely accessible to minors throughout New York City;" that minors participating in the investigation "successfully purchased cigarettes in 79 percent of all attempted cases;" and that "less than one out of five stores asked minors who purchased cigarettes for proof of age." The **Easy Access** report cited a 1992 Journal of the American Medical Association (JAMA) article entitled "Brand Logo Recognition by Children Aged 3 to 6 Years" which demonstrated that 30 percent of the three year olds and 91 percent of the six year olds surveyed could correctly match the Joe Camel cartoon trademark with Camel cigarettes. The **Easy Access** Report also referred to a 1991 JAMA report entitled "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children" which estimated that illegal sales of Camel cigarettes to minors rose from $6 million per year before the advent of Joe Camel in 1988, to $476 million by the end of 1991. The 1991 JAMA report concluded that one-quarter of all Camel sales in 1991 were to minors.

In May 1996, the City Department of Consumer Affairs, joined by the Chair of the Council's Youth Services Committee, announced the results of a citywide enforcement program against tobacco product retailers who violated the law by selling tobacco products to minors. This citywide enforcement program, denoted **Three Puffs and You're Out,** was, at least in part, motivated by the Council's **Easy Access** investigative report discussed above. Two hundred tobacco retailers were targeted by this enforcement program. One-year suspensions of their tobacco retailer licenses were imposed on seventeen retailers who illegally sold tobacco products to minors three times during the preceding two years. Ninety-three of the retailers targeted for enforcement were found to be illegally selling cigarettes to minors, thirty-one of the retailers targeted for enforcement were illegally selling loose cigarettes to minors and thirty-six of the retailers targeted for enforcement had failed to post the required sign indicating that tobacco sales to minors are prohibited by local law.

A 1991 JAMA study concluded that "cigarette advertising encourages youth to smoke and should be banned." In a 1994 report, the National Institute of Medicine stated that "the substantial convergent evidence that advertising and promotion increase tobacco use by youths is impressive and, in the Committee's view, provides a strong basis for legal regulation." Similarly, a 1995 report by the federal Centers for Disease Control and Prevention found that "cigarette marketing practices appeared to be the most likely to account for [the] increase in teen smoking initiation rates."

The federal Department of Health and Human Services' Food and Drug Administration (FDA) recently

reported that "[i]n 1993, the tobacco industry spent a total of $6.2 billion on the advertising, promotion and marketing of cigarettes and smokeless tobacco. Of that number, 31 percent ($1.9 billion) was spent on advertising and promotional activities, 26 percent ($1.6 billion) was given to retailers in the form of cash allowances or retailer items to facilitate and enhance the sale of tobacco products, and, finally, 43 percent ($2.6 billion) was in the form of financial incentives (e.g. coupons, cents off, buy one/get one free, free samples) to consumers."

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On March 20, 1997, as part of a settlement agreement signed by the Attorneys General of 17 states, including New York State, and Liggett & Myers Inc. and the Brooke Group, Ltd., cigarette manufacturers, the following statement was among those made by and on behalf of Liggett & Myers: "Liggett acknowledges that the tobacco industry markets to `youth', which means those under 18 years of age. . . ."

In light of the foregoing evidence that cigarettes are advertised and promoted to minors and that smoking by minors continues to dramatically increase despite laws banning the sale or distribution of tobacco products to minors, the Council of the City of New York finds and declares that affirmative, reasonable and constitutionally permissible restrictions on tobacco product advertising and promotion may and must be enacted.

The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

It is well settled law that the First Amendment protects commercial speech but to a lesser degree than the protection afforded other, "fully protected speech." In analyzing the constitutionality of commercial speech regulation, the United States Supreme Court prescribed a four-prong test in **Central Hudson Gas & Electric Corporation v. Public Service Commission of New York,** 447 U.S. 557 (1980). The **Central Hudson** test, which subsequent decisions have ratified and clarified, provides that government restrictions on commercial speech are lawful where: (1) the commercial speech at issue concerns a lawful activity and is not misleading; (2) the asserted governmental interest in restricting the commercial speech is substantial; (3) the restriction directly advances the governmental interest asserted; and (4) the restrictions are not more extensive than necessary to serve that governmental interest. The latter two requirements involve a determination that there is a reasonable "fit" between the government's ends and the means chosen to accomplish these ends. **Board of Trustees of**

State Univ. of New York v. Fox, 492 U.S. 469, 480 (1989); **see also, United States v. Edge Broadcasting Co.,** 509 U.S. 418 (1993).

The restrictions on commercial speech contained in this Council legislation are permissible under the **Central Hudson** four-prong test. The commercial speech at issue concerns a lawful activity and is not misleading, at least as it applies to consenting adults. The governmental interest in restricting the commercial speech at issue is one grounded in the pre-existing prohibition on the sale and distribution of tobacco products to minors and is geared directly towards countering the adverse impacts of an industry strategy admittedly directed at younger prospective smokers. By restricting the locations for advertisements that are more likely to be addressed to and most likely to be seen by minors, specifically to 1,000 feet from schools, child day care centers and the like, while still permitting tobacco product sellers to notify their customers that such products are available for purchase with a single tombstone advertisement which may be written in any language, this Council legislation directly advances the governmental interest in enforcing the ban on the sale or distribution of tobacco products to minors. Similarly, by permitting tobacco product promotions to be offered and/or given to anyone of lawful age to purchase cigarettes, this Council legislation restricts only promotions designed to induce children to purchase cigarettes. Finally, as the restrictions in this Council legislation focus on modes and locations of communication that are most likely to have a direct impact upon minors, the restrictions contained in this Council legislation strike a balance between the commercial interest in selling tobacco products to persons of lawful age and the need to limit inducements to children who cannot lawfully purchase such products but are nonetheless doing so. Thus, the Council legislation is not more extensive than necessary to serve the governmental interests asserted herein. Other forms of advertising including newspapers, magazines, audio and video media, that are less likely to have a direct impact on minors, and all promotions directed to adults are not affected by this Council legislation. Moreover, street advertisements not within 1,000 feet of a school, child day care center, youth center, amusement arcade or playground, which can readily reach an adult population, are not affected by this Council legislation.

In **Penn Advertising of Baltimore v. Baltimore,** 101 F.3d 325 (4th Cir. 1995), the United States Court of Appeals for the Fourth Circuit upheld a Baltimore city ordinance which prohibited advertising cigarettes in a publicly visible location against challenges grounded in the First Amendment to the United States Constitution and federal preemption. The court held that the Baltimore city ordinance is not preempted by the Federal Cigarette Labeling and Advertising Act, which prohibits local enactments based on smoking and health with respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test. Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

The Council's legislation likewise only limits the locations where tobacco product advertisements may be placed. It addresses neither the location of advertising directed at adults nor the content thereof. As with the Baltimore cigarette ordinance, the Council's legislation neither imposes a duty on tobacco product manufacturers nor relieves a burden otherwise placed upon them related to smoking and health.

Ruling on another city ordinance that closely parallels this Council's legislation, on November 13, 1996, the United States Court of Appeals for the Fourth Circuit upheld against First Amendment attack legislation enacted in the City of Baltimore prohibiting placement of stationary outdoor advertising of alcoholic beverages in areas where it was likely to be encountered by minors traveling to school or play. The Baltimore ordinance

targeted individuals who could not legally purchase alcoholic beverages. This Council's legislation similarly targets minors who may not legally purchase cigarettes. Neither this legislation nor the Baltimore ordinance were directed toward or intended to affect adults who may legally purchase cigarettes and alcoholic beverages respectively. Neither this legislation nor the Baltimore ordinance bans all outdoor advertising of cigarettes and alcoholic beverages respectively. Instead, as did the Baltimore ordinance, this legislation merely restricts the time, place and manner of such advertisements.
33

[Footnote 33]: * The part of §27-508.3 that regulates the type of sign (tombstone) was pre-empted (§27-508.3(c)), but the part prohibiting signs within a specified distance from a school was not pre-empted. See note after §27-508.1

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.4 Non-compliant advertisements to be removed.

The owner, operator or lessee of any location or premises where a tobacco product advertisement is prohibited or restricted pursuant to the requirements of section 27-508.3 of this article shall have thirty days from the effective date of the local law that added this section to remove any non-compliant tobacco product advertisements.

HISTORICAL NOTE

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA). Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

18

[Footnote 18]: * Note: Article added L.L. 3/1998, note provisions of L.L. 3/1998 § 1:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that certain tobacco product manufacturers have admitted engaging in strategies designed to advertise and promote tobacco products to minors and that such strategies undermine state and local laws prohibiting the sale or distribution of tobacco products to minors. The Council further finds that the exposure of minors to such tobacco product advertising and promotion may be constitutionally restricted through reasonable targeted limitations on the advertising of such products near schools and other locations where children tend to congregate, and through a prohibition on the offering of promotions to persons under the age of eighteen. Thereby, the Council intends to strengthen compliance with and enforcement of laws prohibiting the sale or distribution of tobacco products to children and to protect children against such illegal sales.

Although the rate of smoking among adults nationwide decreased by 50% between 1971 and 1993, the federal Centers for Disease Control and Prevention have reported that the rate of smoking among all high school students during the years 1991 through 1996 increased by over 26% and now stands at its highest rate since 1981. This dramatic increase in teenage smoking has occurred while all fifty states and the District of Columbia have had prohibitions in effect on the sale or distribution of cigarettes and other tobacco products to minors and while all tobacco product manufacturers were pledged to adhere to a voluntary industry code prohibiting advertisement of tobacco products that appeal to or influence minors. In New York City, under section 17-620 of the Administrative Code of the City of New York, section 1399-cc of the State Public Health Law and section 260.20 of the State Penal Law, it is illegal to sell tobacco products to a minor.

It has also been reported that nearly 90% of all smokers begin to smoke prior to the age of 18 and that the average child smoker starts daily smoking by the age of 14. Between 1991 and 1996 the rate of smoking among Hispanic high school students nationwide reportedly increased by over 34% while, during the same period, the rate of smoking among African-American high school students nationwide increased by over 48%; these rates of increased smoking are the highest in a decade. In New York City, as reported by the Department of Consumer Affairs, 200 children begin to smoke every day.

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The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the

necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

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respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test. Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.5 Sponsorship of and at events.

Nothing in this article shall prevent a tobacco products manufacturer, distributor, or retailer who sponsors, in whole or in part, any athletic, musical, artistic, or cultural event, or team or entry in a competition or exhibition in any location from displaying or causing to be displayed the corporate or other business name of such sponsor; provided, however, that the corporate or other business name of such sponsor is registered or filed in the United States or such sponsor is authorized to do business in any state, and the corporate or other business name of such sponsor does not include any brand name or trademark of a tobacco product, alone or in conjunction with any written word, picture, logo, symbol, motto, selling message, poster, placard, sign, photograph, device, graphic display or visual image of any kind, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of a tobacco product.

HISTORICAL NOTE

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA). Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

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On March 20, 1997, as part of a settlement agreement signed by the Attorneys General of 17 states, including New York State, and Liggett & Myers Inc. and the Brooke Group, Ltd., cigarette manufacturers, the following statement was among those made by and on behalf of Liggett & Myers: "Liggett acknowledges that the tobacco industry markets to `youth', which means those under 18 years of age. . . ."

In light of the foregoing evidence that cigarettes are advertised and promoted to minors and that smoking by minors continues to dramatically increase despite laws banning the sale or distribution of tobacco products to minors, the Council of the City of New York finds and declares that affirmative, reasonable and constitutionally permissible restrictions on tobacco product advertising and promotion may and must be enacted.

The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

It is well settled law that the First Amendment protects commercial speech but to a lesser degree than the protection afforded other, "fully protected speech." In analyzing the constitutionality of commercial speech regulation, the United States Supreme Court prescribed a four-prong test in **Central Hudson Gas & Electric Corporation v. Public Service Commission of New York,** 447 U.S. 557 (1980). The **Central Hudson** test, which subsequent decisions have ratified and clarified, provides that government restrictions on commercial speech are lawful where: (1) the commercial speech at issue concerns a lawful activity and is not misleading; (2) the asserted governmental interest in restricting the commercial speech is substantial; (3) the restriction directly advances the governmental interest asserted; and (4) the restrictions are not more extensive than necessary to serve that governmental interest. The latter two requirements involve a determination that there is a reasonable "fit" between the government's ends and the means chosen to accomplish these ends. **Board of Trustees of State Univ. of New York v. Fox,** 492 U.S. 469, 480 (1989); **see also, United States v. Edge Broadcasting Co.,** 509 U.S. 418 (1993).

The restrictions on commercial speech contained in this Council legislation are permissible under the **Central Hudson** four-prong test. The commercial speech at issue concerns a lawful activity and is not misleading, at least as it applies to consenting adults. The governmental interest in restricting the commercial speech at issue is one grounded in the pre-existing prohibition on the sale and distribution of tobacco products to minors and is geared directly towards countering the adverse impacts of an industry strategy admittedly directed at younger prospective smokers. By restricting the locations for advertisements that are more likely to be addressed to and most likely to be seen by minors, specifically to 1,000 feet from schools, child day care centers and the like, while still permitting tobacco product sellers to notify their customers that such products are available for purchase with a single tombstone advertisement which may be written in any language, this Council legislation directly advances the governmental interest in enforcing the ban on the sale or distribution of tobacco products to minors. Similarly, by permitting tobacco product promotions to be offered and/or given to anyone of lawful age to purchase cigarettes, this Council legislation restricts only promotions designed to induce children to purchase cigarettes. Finally, as the restrictions in this Council legislation focus on modes and locations of communication that are most likely to have a direct impact upon minors, the restrictions contained in this Council legislation strike a balance between the commercial interest in selling tobacco products to persons of lawful age and the need to limit inducements to children who cannot lawfully purchase such products but are nonetheless doing so. Thus, the Council legislation is not more extensive than necessary to serve the governmental interests asserted herein. Other forms of advertising including newspapers, magazines, audio and video media, that are less likely to have a direct impact on minors, and all promotions directed to adults are not affected by this Council legislation. Moreover, street advertisements not within 1,000 feet of a school, child day care center, youth center, amusement arcade or playground, which can readily reach an adult population, are not

affected by this Council legislation.

In **Penn Advertising of Baltimore v. Baltimore,** 101 F.3d 325 (4th Cir. 1995), the United States Court of Appeals for the Fourth Circuit upheld a Baltimore city ordinance which prohibited advertising cigarettes in a publicly visible location against challenges grounded in the First Amendment to the United States Constitution and federal preemption. The court held that the Baltimore city ordinance is not preempted by the Federal Cigarette Labeling and Advertising Act, which prohibits local enactments based on smoking and health with respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test. Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

The Council's legislation likewise only limits the locations where tobacco product advertisements may be placed. It addresses neither the location of advertising directed at adults nor the content thereof. As with the Baltimore cigarette ordinance, the Council's legislation neither imposes a duty on tobacco product manufacturers nor relieves a burden otherwise placed upon them related to smoking and health.

Ruling on another city ordinance that closely parallels this Council's legislation, on November 13, 1996, the United States Court of Appeals for the Fourth Circuit upheld against First Amendment attack legislation enacted in the City of Baltimore prohibiting placement of stationary outdoor advertising of alcoholic beverages in areas where it was likely to be encountered by minors traveling to school or play. The Baltimore ordinance targeted individuals who could not legally purchase alcoholic beverages. This Council's legislation similarly targets minors who may not legally purchase cigarettes. Neither this legislation nor the Baltimore ordinance were directed toward or intended to affect adults who may legally purchase cigarettes and alcoholic beverages respectively. Neither this legislation nor the Baltimore ordinance bans all outdoor advertising of cigarettes and alcoholic beverages respectively. Instead, as did the Baltimore ordinance, this legislation merely restricts the time, place and manner of such advertisements.

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-508.6

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.6 Injunctive relief.

Whenever any person has engaged in any act or practice which constitutes a violation of any provision of this article or of chapter thirteen of title eleven of this code, or of subchapter one of chapter two of title twenty of this code, or of any rule promulgated thereunder, the city may make application to a court of competent jurisdiction for an order enjoining such act or practice.

HISTORICAL NOTE

Section amended L.L. 2/2000 § 11, eff. Aug. 2, 2000.

Section added L.L. 3/1998 § 2, eff. July 13, 1998 per L.L. 10/1998 § 1.

CASE NOTES

¶ 1. A court has held that this section was not pre-empted by the Federal Cigarette Labeling and Advertising Act (FCLAA). Greater New York Metropolitan Food Council, Inc. v. Giuliani, 195 F.3d 100 (2d Cir. 1999).

FOOTNOTES

18

[Footnote 18]: * Note: Article added L.L. 3/1998, note provisions of L.L. 3/1998 § 1:

Section 1. Declaration of legislative findings and intent. The Council of the City of New York hereby finds that certain tobacco product manufacturers have admitted engaging in strategies designed to advertise and promote tobacco products to minors and that such strategies undermine state and local laws prohibiting the sale or distribution of tobacco products to minors. The Council further finds that the exposure of minors to such tobacco product advertising and promotion may be constitutionally restricted through reasonable targeted limitations on the advertising of such products near schools and other locations where children tend to congregate, and through a prohibition on the offering of promotions to persons under the age of eighteen. Thereby, the Council intends to strengthen compliance with and enforcement of laws prohibiting the sale or distribution of tobacco products to children and to protect children against such illegal sales.

Although the rate of smoking among adults nationwide decreased by 50% between 1971 and 1993, the federal Centers for Disease Control and Prevention have reported that the rate of smoking among all high school students during the years 1991 through 1996 increased by over 26% and now stands at its highest rate since 1981. This dramatic increase in teenage smoking has occurred while all fifty states and the District of Columbia have had prohibitions in effect on the sale or distribution of cigarettes and other tobacco products to minors and while all tobacco product manufacturers were pledged to adhere to a voluntary industry code prohibiting advertisement of tobacco products that appeal to or influence minors. In New York City, under section 17-620 of the Administrative Code of the City of New York, section 1399-cc of the State Public Health Law and section 260.20 of the State Penal Law, it is illegal to sell tobacco products to a minor.

It has also been reported that nearly 90% of all smokers begin to smoke prior to the age of 18 and that the average child smoker starts daily smoking by the age of 14. Between 1991 and 1996 the rate of smoking among Hispanic high school students nationwide reportedly increased by over 34% while, during the same period, the rate of smoking among African-American high school students nationwide increased by over 48%; these rates of increased smoking are the highest in a decade. In New York City, as reported by the Department of Consumer Affairs, 200 children begin to smoke every day.

Similarly, a 1994 report by the United States Surgeon General containing data on the use of smokeless tobacco by minors reported that the market for smokeless tobacco had shifted dramatically toward young people since 1970. That report cited school-based surveys conducted in 1991 which estimated that 19.2% of ninth to twelfth grade boys use smokeless tobacco. Among high school seniors who had ever tried smokeless tobacco, the report said that 73% did so by the ninth grade.

A December 1995 investigative report, prepared for the Speaker of the Council and the Council's Youth Services Committee concerning the availability of beer and cigarettes to New York City minors and entitled **Easy Access,** found, **inter alia,** that "cigarettes are widely accessible to minors throughout New York City;" that minors participating in the investigation "successfully purchased cigarettes in 79 percent of all attempted cases;" and that "less than one out of five stores asked minors who purchased cigarettes for proof of age." The **Easy Access** report cited a 1992 Journal of the American Medical Association (JAMA) article entitled "Brand Logo Recognition by Children Aged 3 to 6 Years" which demonstrated that 30 percent of the three year olds and 91 percent of the six year olds surveyed could correctly match the Joe Camel cartoon trademark with Camel cigarettes. The **Easy Access** Report also referred to a 1991 JAMA report entitled "RJR Nabisco's Cartoon Camel Promotes Camel Cigarettes to Children" which estimated that illegal sales of Camel cigarettes to minors

rose from $6 million per year before the advent of Joe Camel in 1988, to $476 million by the end of 1991. The 1991 JAMA report concluded that one-quarter of all Camel sales in 1991 were to minors.

In May 1996, the City Department of Consumer Affairs, joined by the Chair of the Council's Youth Services Committee, announced the results of a citywide enforcement program against tobacco product retailers who violated the law by selling tobacco products to minors. This citywide enforcement program, denoted **Three Puffs and You're Out,** was, at least in part, motivated by the Council's **Easy Access** investigative report discussed above. Two hundred tobacco retailers were targeted by this enforcement program. One-year suspensions of their tobacco retailer licenses were imposed on seventeen retailers who illegally sold tobacco products to minors three times during the preceding two years. Ninety-three of the retailers targeted for enforcement were found to be illegally selling cigarettes to minors, thirty-one of the retailers targeted for enforcement were illegally selling loose cigarettes to minors and thirty-six of the retailers targeted for enforcement had failed to post the required sign indicating that tobacco sales to minors are prohibited by local law.

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The purpose of this legislation is to promote enforcement of the aforementioned laws banning the sale or distribution of tobacco products to minors and to thereby protect young people. The Council is cognizant of the necessity of acting within the protections afforded by the First Amendment to the United States Constitution and has, therefore, narrowly tailored the scope and effect of this legislation to impose reasonable time, place and manner restrictions on tobacco advertising aimed at or regularly seen by youth while not directly affecting advertising and promotions directed at adults. Indeed, the extensive testimony taken at various Committee hearings prompted the Council to narrow the scope of the prohibition on tobacco product advertisements to ensure that such advertisements are restricted only in those locations closest to where children congregate, and that tobacco product promotions are not given to children but are otherwise freely available to the adult population.

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Administrative Code of the City of New York

***** Current through December 2009 ****

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Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 17-A YOUTH PROTECTION AGAINST TOBACCO ADVERTISING AND PROMOTION ACT*18

§ 27-508.7 Penalties.

Notwithstanding the provisions of sections 26-122, 26-125 and 26-248 of this code, a violation of this article shall not subject any person to liability for a criminal offense.

HISTORICAL NOTE

Section added L.L. 10/1998 § 2, eff. Mar. 13, 1998.

FOOTNOTES

18

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The restrictions on commercial speech contained in this Council legislation are permissible under the **Central Hudson** four-prong test. The commercial speech at issue concerns a lawful activity and is not misleading, at least as it applies to consenting adults. The governmental interest in restricting the commercial speech at issue is one grounded in the pre-existing prohibition on the sale and distribution of tobacco products to minors and is geared directly towards countering the adverse impacts of an industry strategy admittedly directed at younger prospective smokers. By restricting the locations for advertisements that are more likely to be addressed to and most likely to be seen by minors, specifically to 1,000 feet from schools, child day care centers and the like, while still permitting tobacco product sellers to notify their customers that such products are available for purchase with a single tombstone advertisement which may be written in any language, this Council legislation directly advances the governmental interest in enforcing the ban on the sale or distribution of tobacco products to minors. Similarly, by permitting tobacco product promotions to be offered and/or given to anyone of lawful age to purchase cigarettes, this Council legislation restricts only promotions designed to induce children to purchase cigarettes. Finally, as the restrictions in this Council legislation focus on modes and locations of communication that are most likely to have a direct impact upon minors, the restrictions contained in this Council legislation strike a balance between the commercial interest in selling tobacco products to persons of lawful age and the need to limit inducements to children who cannot lawfully purchase such products but are nonetheless doing so. Thus, the Council legislation is not more extensive than necessary to serve the governmental interests asserted herein. Other forms of advertising including newspapers, magazines, audio and video media, that are less likely to have a direct impact on minors, and all promotions directed to adults are not affected by this Council legislation. Moreover, street advertisements not within 1,000 feet of a school, child day care center, youth center, amusement arcade or playground, which can readily reach an adult population, are not affected by this Council legislation.

In **Penn Advertising of Baltimore v. Baltimore,** 101 F.3d 325 (4th Cir. 1995), the United States Court of Appeals for the Fourth Circuit upheld a Baltimore city ordinance which prohibited advertising cigarettes in a publicly visible location against challenges grounded in the First Amendment to the United States Constitution and federal preemption. The court held that the Baltimore city ordinance is not preempted by the Federal Cigarette Labeling and Advertising Act, which prohibits local enactments based on smoking and health with respect to cigarette advertising and promotion. The court reasoned that the ordinance "limits only the location of signs that advertise cigarettes, but it does not address the content of such advertisements. The ordinance neither imposes a duty nor relieves a burden on cigarette advertisers based on smoking and health. Moreover, the ordinance does not limit the ability of cigarette manufacturers to advertise generally in the media." The court also decided that the Baltimore ordinance is a permissible regulation under the **Central Hudson** four-prong test.

Noting that "the governmental interest asserted in this case is to promote compliance with the state prohibition of the sale of cigarettes to minors," the court concluded that "the City's objective in reducing cigarette consumption by minors constitutes a substantial public interest." The court further concluded that "while the fit between the City's objective and the means selected to achieve them may not be perfect, it nevertheless falls well within the range tolerated by the First Amendment for the regulation of commercial speech."

The Council's legislation likewise only limits the locations where tobacco product advertisements may be placed. It addresses neither the location of advertising directed at adults nor the content thereof. As with the Baltimore cigarette ordinance, the Council's legislation neither imposes a duty on tobacco product manufacturers nor relieves a burden otherwise placed upon them related to smoking and health.

Ruling on another city ordinance that closely parallels this Council's legislation, on November 13, 1996, the United States Court of Appeals for the Fourth Circuit upheld against First Amendment attack legislation enacted in the City of Baltimore prohibiting placement of stationary outdoor advertising of alcoholic beverages in areas where it was likely to be encountered by minors traveling to school or play. The Baltimore ordinance targeted individuals who could not legally purchase alcoholic beverages. This Council's legislation similarly targets minors who may not legally purchase cigarettes. Neither this legislation nor the Baltimore ordinance were directed toward or intended to affect adults who may legally purchase cigarettes and alcoholic beverages respectively. Neither this legislation nor the Baltimore ordinance bans all outdoor advertising of cigarettes and alcoholic beverages respectively. Instead, as did the Baltimore ordinance, this legislation merely restricts the time, place and manner of such advertisements.

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-509

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 18 FENCES

§ 27-509 Permitted heights.

In other than residence districts as established by the zoning resolution, fences may be erected throughout the city to a maximum height of ten feet. In residence districts, no fences, whether of masonry, steel, wood, or any other materials shall be erected to a height of more than six feet above the ground, except that fences used in conjunction with nonresidence buildings and public playgrounds, excluding buildings accessory to dwellings, may be erected to a height of fifteen feet Higher fences may be permitted by the commissioner where required for the enclosure of public playgrounds, school yards, parks, and similar public facilities.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-717.1 added LL 76/1968 § 1

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Administrative Code of the City of New York

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NYC Administrative Code 27-510

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-510 Location and height.

Tents or air-supported structures may be erected inside or outside of the fire districts provided they are not more than one story high above the ground, or above a roof that meets the requirements of subchapter five of this chapter for fire divisions.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.1 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-511

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-511 Separation.

No tent or air-supported structure shall be erected closer than twenty feet to any interior lot line nor closer than thirty feet in any direction to an unprotected opening, required exterior stairway or corridor, or required exit door, on the same level or above the level of the tent or air-supported structure. A tent or airsupported structure may abut another building on the same lot if there are no unprotected openings or exits above or within thirty feet as above stipulated, if there is no door between them that is a required exit, and if the exterior wall separating them meets the requirements of subchapter five of this chapter for fire divisions.

Exceptions. Requirements for separation from other buildings on the site shall be waived where a tent or air-supported structure is used for on-site temporary shelter for construction work, or incidental fabrication of construction elements to be used on the site of construction.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.2 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-512

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-512 Fire protection.

The ground enclosed by a tent or air-supported structure, and the ground for a distance of at least ten feet. outside of same, shall be cleared and maintained clear of all combustible material or vegetation. No open flame of any kind shall be employed within the structure, or closer than twenty feet to any part of the enclosure fabric. Fire extinguishing facilities shall be provided in accordance with the requirements of chapter four of this title.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.3 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-513

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-513 Exits.

Notwithstanding any other requirements of subchapters six and eight of this chapter, travel distance to an exit from any point within a tent or air-supported structure shall not exceed seventy-five feet. Exit doors in air-supported structures shall close automatically against normal operational pressures. Opening force at the edge of such doors shall not exceed fifteen pounds, with the structure at operational pressure. Exit doors shall be located in frames so constructed that they will remain operative and support the weight of the structure in a state of total collapse.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.4 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-514

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-514 Structural requirements.

(a) Tents. Tents shall be guyed, supported, and braced to withstand a wind pressure of ten pounds per square foot of projected area of the tent. The poles and their supporting guys, stays, stakes, fastenings, etc. shall be of sufficient strength and attached so as to resist wind pressure of twenty psf of projected area of the tent.

(b) Air-supported structures.

(1) Air-supported structures shall be anchored to the ground or supporting structure by either ballast or positive anchorage, sufficiently and evenly distributed, and adequate to resist the inflation lift load, the aerodynamic lift load, and the drag (shear) load due to wind impact. The latter factors shall be based on a wind velocity of at least seventy miles per hour, and an estimated stagnation of not less than 0.5q for structures on grade whose height is equal to, or less than, the width of the structure. For greater heights, or for elevated structures, increased anchorage shall be provided, justified by analytical and/or experimental data.

(2) The skin of the structure shall be of such strength, and the joints so constructed, as to provide a minimum dead load strip tensile strength at seventy degrees F of four times the seventy mph design load (inflation and

aerodynamic loading). The joints shall provide a dead load strip tensile strength of one hundred sixty degrees F of twice the seventy mph design load (i.e., a factor of safety of four and two respectively). In addition, the material shall provide a trapezoidal tear strength of at least fifteen per cent of the maximum design tensile load. Material and joint strengths shall be so certified by the manufacturer, justified by analytical and/or experimental data.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.5 added LL 76/1968 § 1

Sub b par 1 amended LL 39/1972 § 32

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-515

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-515 Flame resistance.

(a) Tents. All materials used for tents shall be treated to be flameproofed and shall remain flameproofed in accordance with chapter four of this title.

(b) Air-supported structures. All fabrics that have a base fabric weight of 6.4 oz. per square yard or less or that are used to enclose spaces classified in occupancy group C, E, F, G, H or J shall have an extinction time of not more than two seconds when tested under the small scale test method of reference standard RS 7-3. All other fabrics shall have a flame extinction time of not over one minute and/or a flame spread of not over one inch per minute when tested in accordance with the provisions of reference standard RS 7-4.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.6 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-516

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-516 Pressurization system.

Air-supported structures shall be inflated and shall remain inflated during all periods of occupancy to a minimum differential pressure of 0.88 in. and a maximum differential pressure of 1.50 in. of water. Ventilation flow per occupant, either through vents or anticipated leakage, shall comply with the requirements of subchapter twelve of this chapter.

Occupied spaces. Where the net floor area per occupant is one hundred fifty square feet or less, the structure shall be provided with at least two blowers, each of which shall have adequate capacity to maintain the required inflation pressure. Also, an auxiliary engine-generator set capable of powering one blower, or a supplementary blower powered by an internal combustion engine, either of which shall have the capacity to run continuously for four hours, shall be located outside the structure, shall be weather protected, and shall be arranged to automatically operate the blower within twenty seconds upon failure of the normal source. Heat shall be provided from a source outside the structure so arranged as to prevent the spread of fire to the structure. The temperature within the air-supported structure shall be maintained at the temperature required by subchapter twelve of this chapter, but not less than fifty degrees Fahrenheit during periods of snowfall.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.7 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-517

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 19 TENTS AND AIR-SUPPORTED STRUCTURES

§ 27-517 Certificate of occupancy.

Certificates of occupancy for tents or air-supported structures shall be issued for a period not exceeding one year, and such certificates may be renewed for one year periods thereafter if the tent or air-supported structure complies with all laws, rules and regulations in effect at the time of request for renewal.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-718.8 added LL 76/1968 § 1

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-518

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 20 OCCUPANCIES INVOLVING STORAGE OF NITRIC ACID

§ 27-518 Application.

This article shall apply to the construction, alteration and use of buildings or spaces wherein nitric acid is stored.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-719.1 added LL 54/1970 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-519

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 20 OCCUPANCIES INVOLVING STORAGE OF NITRIC ACID

§ 27-519 Location.

Carboys containing nitric acid shall be stored in storage vaults.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-719.2 added LL 54/1970 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-520

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 20 OCCUPANCIES INVOLVING STORAGE OF NITRIC ACID

§ 27-520 Construction requirements.

(a) Vaults shall be constructed of incombustible acid-resistant material with a fire resistance of at least one hour.

(b) Doors opening into such storage vaults shall be self-closing, noncombustible fire doors with a fire-protection rating of at least three quarters of an hour.

(c) Vault floors shall be constructed of acid-resistant brick, concrete treated with sodium silicate or other acid-proof material and shall incorporate a dike constructed of the same material, whose height shall be adequate to contain the acid plus the neutralizing substance that would be necessary to neutralize said acid plus six inches.

(d) The floor shall be provided with a valved drain which shall be connected to the drainage system in accordance with the requirements of subchapter sixteen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-719.3 added LL 54/1970 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521

Administrative Code of the City of New York

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ARTICLE 20 OCCUPANCIES INVOLVING STORAGE OF NITRIC ACID

§ 27-521 Ventilation.

Mechanical ventilation systems for storage vaults shall be adequate to effect ten complete air changes per hr. Exhaust shall be taken from within twelve inches above the level of the top of the dike. The exhaust system shall be independent of exhaust systems serving other parts of the building and the openings to the outdoors shall be located in accordance with the provisions of subchapter thirteen of this chapter for system conveying vapors.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-719.4 added LL 54/1970 § 11

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.1

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 21 ATRIUMS

§ 27-521.1 Applicability.

This article shall apply to the construction, alteration and use of atriums.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.1 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.2

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 21 ATRIUMS

§ 27-521.2 Classification.

An atrium shall be classified in occupancy group F-3.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.2 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.3

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 21 ATRIUMS

§ 27-521.3 Construction.

(a) Atriums may be constructed only in buildings in noncombustible construction groups 1-A, 1-B and 1-C.

(b) An atrium shall be fully enclosed except that openings of any size into the two lowest levels of an atrium shall be permitted if such openings are provided with opening protectives having a fire-resistance rating of at least one and one-half hours or are provided with sprinklers no more than six feet apart.

(c) The minimum horizontal clear dimension of an atrium shall be forty feet, provided, however that this dimension can be reduced to twenty feet where sprinkler spacing on the occupied side adjacent to glass panels authorized by subdivision (d) of this section is no more than four feet or the minimum atrium area is twelve hundred square feet.

(d) Atrium enclosing walls shall be of at least two hour fireresistant construction or of glass that is wired, laminated, or tempered and is provided with sprinklers on the occupied side spaced no more than six feet apart, except as otherwise permitted by subdivision (c) of this section.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.3 added LL 16/1984 § 52

Administrative Code of the City of New York

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NYC Administrative Code 27-521.4

Administrative Code of the City of New York

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ARTICLE 21 ATRIUMS

§ 27-521.4 Fire protection equipment.

(a) Smoke detectors. In all spaces opening onto an atrium, a smoke detecting system shall be installed in accordance with the requirements of reference standard RS 17-5E.

(b) Standpipes. At least one standpipe outlet in addition to a riser or risers within required stairways, shall be installed in every atrium.

(c) Sprinklers. (1) Every story or mezzanine within an atrium that overhangs another story or mezzanine within fifty feet shall have the overhang sprinklered in accordance with section 27-956 of article four of subchapter seventeen of this chapter, except that atrium ceilings less than fifty feet above the atrium floor but more than thirty feet above the floor may alternatively be provided with smoke detectors, which shall be of the central supervisory type connected to an approved central station. Every room or space opening onto the atrium shall be sprinklered, no matter where located.

(2) Except as otherwise permitted by subdivision (c) of section 27-521.3 of this article, at glass panels permitted by subdivision (d) of such section, sprinklers on the occupied side at all levels shall be spaced six feet apart parallel to the glass and that distance away from the glass panels so as to insure complete glass wetting upon activation. No

obstructions to such wetting capability shall be permitted.

(3) Every sprinkler system for an atrium shall be provided with sources of water supply in accordance with article four of subchapter seventeen of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.4 added LL 16/1984 § 52

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Administrative Code of the City of New York

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NYC Administrative Code 27-521.5

Administrative Code of the City of New York

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ARTICLE 21 ATRIUMS

§ 27-521.5 Means of egress.

(a) No vertical exits shall discharge into an atrium at any level.

(b) Atrium corridors shall have a width equal to or greater than one hundred fifty per cent of that required by either table 6-1 of subchapter six or table 8-1 of subchapter eight, as applicable.

(c) An unenclosed path of travel to a required exit shall be permitted, except that access to one of the required vertical exits shall be only through an enclosed passageway or corridor conforming to the requirements for exits of subchapter six.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.5 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.6

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 21 ATRIUMS

§ 27-521.6 Fire alarm and communication system.

An interior fire alarm and communication system shall be installed in accordance with the requirements of reference standard RS 17-3.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.6 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.7

Administrative Code of the City of New York

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 21 ATRIUMS

§ 27-521.7 Signs.

Atriums shall be provided with all signs required by articles seven and nine of subchapter six of this chapter, regardless of the occupant load of the atrium.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.7 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.8

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 21 ATRIUMS

§ 27-521.8 Smoke control.

(a) In all atriums there shall be provided a system of mechanical ventilation of sufficient capacity to exhaust at least six air changes per hour of the combined volumes of the atrium and all spaces with an open connection to the atrium, or 1 cfm/sq. ft. from all such spaces, whichever is greater, using either dedicated fan equipment or the building ventilation system arranged to shut down automatically, with manual override capability. Make-up air shall be supplied at the lowest level of an atrium at a rate equal to seventy-five percent of exhaust.

(b) All atriums shall have a gravity ventilation system equipped with remote manual controls to remove smoke if the mechanical exhaust system fails.

(c) A ventilation system serving an atrium shall not be interconnected with any other system serving another space.

(d) Ventilation systems supplying occupied spaces shall not be interconnected with the general atrium supply.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.8 added LL 16/1984 § 52

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Administrative Code of the City of New York

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NYC Administrative Code 27-521.9

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 21 ATRIUMS

§ 27-521.9 Emergency power.

All atriums shall be provided with an emergency power system meeting the requirements of article eleven of subchapter six of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-720.9 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.10

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

SUBCHAPTER 7 SPECIAL USES AND OCCUPANCIES

ARTICLE 22 MALLS

§ 27-521.10 Applicability.

This article shall apply to the construction, alteration and use of malls.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.1 added LL 16/1984 § 52

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Administrative Code of the City of New York

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NYC Administrative Code 27-521.11

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 22 MALLS

§ 27-521.11 Classification.

A mall shall be classified in occupancy group C.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.2 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.12

Administrative Code of the City of New York

Title 27 Construction and Maintenance

CHAPTER 1 BUILDING CODE

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ARTICLE 22 MALLS

§ 27-521.12 Construction; general.

(a) A mall may be constructed only in buildings in noncombustible construction groups 1-A, 1-B and 1-C.

(b) The minimum horizontal clear dimension at any level in a mall shall be twenty feet.

(c) Where different tenancies have openings to a mall the tenancies shall be separated in accordance with section 27-341 of article five of subchapter five of this chapter.

(d) All openings between a mall and other spaces shall be provided with a noncombustible draft curtain that shall extend downward a minimum of twenty-four inches below the lowest ceiling adjacent to such draft curtain or shall meet the requirements of clause three of subparagraph d of paragraph three of subdivision (h) of section 27-370 of article five of subchapter six of this chapter relating to show windows.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.3 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.13

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 22 MALLS

§ 27-521.13 Fire protection equipment.

(a) Smoke detectors. Smoke detectors meeting the specifications of section 27-981 of article six of subchapter seventeen shall be located at the ceiling and adjacent to each return air intake.

(b) Standpipes. At least one standpipe outlet shall be installed in every mall.

(c) Sprinklers. An automatic wet sprinkler system shall be installed in every mall.

(1) All spaces with openings between such spaces and a mall shall be fully sprinklered in accordance with subchapter seventeen of this chapter and reference standard RS 17-2 regardless of floor area or occupancy classification.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.4 added LL 16/1984 § 52

Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.14

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 22 MALLS

§ 27-521.14 Egress.

The exits for a mall shall be of sufficient capacity to accommodate the aggregate occupant load of the mall and all spaces opening onto the mall.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.5 added LL 16/1984 § 52

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Administrative Code of the City of New York

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NYC Administrative Code 27-521.15

Administrative Code of the City of New York

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ARTICLE 22 MALLS

§ 27-521.15 Smoke control.

(a) In all malls there shall be provided a system of mechanical ventilation of sufficient capacity to exhaust at least six air changes per hour of the combined volumes of the mall and all spaces with an open connection to the mall, or 1 cfm/sq. ft. from all such spaces, whichever is greater, using either dedicated fan equipment or the building ventilation system arranged to shut down automatically, with manual override capability. Make-up air shall be supplied at the lowest level of a mall at a rate equal to seventy-five per cent of exhaust.

(b) All malls shall have a gravity ventilation system equipped with remote manual controls to remove smoke if the mechanical exhaust system fails.

(c) A ventilation system serving a mall shall not be interconnected with any other system serving another space.

(d) Ventilation systems supplying occupied spaces shall not be interconnected with the general mall supply.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.6 added LL 16/1984 § 52

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Administrative Code of the City of New York

***** Current through December 2009 ****

NYC Administrative Code 27-521.16

Administrative Code of the City of New York

Title 27 Construction and Maintenance

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ARTICLE 22 MALLS

§ 27-521.16 Signs.

Malls shall be provided with all signs required by articles seven and nine of subchapter six of this chapter, regardless of occupant load of the mall.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-721.7 added LL 16/1984 § 52

NYC Administrative Code 27-522

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ARTICLE 1 GENERAL

§ 27-522 Scope.

The provisions of this subchapter shall control the design and construction of places of assembly as defined in subchapter two of this chapter. For specific classification of assembly occupancies, see article eight of subchapter three of this chapter. For place of assembly permit requirements, see section 27-525.1 of article two of this subchapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

Section amended L.L. 23/1990 § 10 eff. July 7, 1990

DERIVATION

Formerly § C26-800.1 added LL 76/1968 § 1

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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NYC Administrative Code 27-523

Administrative Code of the City of New York

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ARTICLE 1 GENERAL

§ 27-523 Definitions.

For definitions to be used in the interpretation of this subchapter, see subchapter two of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-800.2 added LL 76/1968 § 1

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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NYC Administrative Code 27-524

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ARTICLE 1 GENERAL

§ 27-524 Tents and air supported structures.

Places of assembly enclosed by tents or air supported structures shall comply with the provisions of this subchapter regulating indoor places of assembly, and with the provisions of article nineteen of subchapter seven of this chapter.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-800.3 added LL 76/1968 § 1

Amended LL 39/1972 § 33

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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NYC Administrative Code 27-525

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ARTICLE 2 BASIC REQUIREMENTS

§ 27-525 General.

The provisions of this article shall apply to all places of assembly, in addition to the specific requirements of articles three through five of this subchapter for the several categories of places of assembly.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-801.1 added LL 76/1968 § 1

Amended LL 39/1972 § 34

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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ARTICLE 2 BASIC REQUIREMENTS

§ 27-525.1 Place of assembly permit.

a. It shall be unlawful to use or occupy any building or premises or part thereof as a place of assembly unless and until a permit therefor shall have been issued by the department. The permit shall be for a term of one year.

b. The application for such permit and such permit shall be in a form prescribed by the commissioner.

c. The annual fee for a permit issued pursuant to this section shall be the amount provided for in paragraph seven of subdivision a of section 26-214 of the code. An application for such permit or renewal thereof shall be accompanied by the annual fee, except as otherwise provided in section 26-210 of the code.

d. The permit issued pursuant to this section shall be posted in a conspicuous place in the place of assembly which is covered by such permit.

e. In the case of a permittee that is an establishment that offers for sale food and/or beverages for on-premises consumption, but not including establishments operated by a not-for-profit corporation, and employs or uses the services of a security guard, as that term is defined in subdivision six of section eighty nine-f of the general business

law, such permittee shall comply with the provisions of article 7-A of the general business law, shall obtain proof that such security guard is registered pursuant to article 7-A of the general business law, shall maintain such proof in a readily available location, in accordance with rules promulgated by the commissioner during all hours in which such place of assembly is open to the public, shall maintain a roster of all security guards working at any given time when such place of assembly is open to the public, and shall require each security guard to maintain on his or her person proof of registration at all times when on the premises.

f. For purposes of this section, there shall be a rebuttable presumption that a person employed or whose services are retained at a place of assembly whose job functions include (1) the monitoring or guarding of the entrance or exit of such place of assembly to manage ingress and egress to such place of assembly for security purposes during the hours of operation of such establishment and/or (2) protection of such place of assembly from disorderly or other unlawful conduct by such patrons is a security guard provided, however, that such rebuttable presumption shall not apply to the owner of such establishment as described in subdivision e of this section that has received a place of assembly permit.

g. Notwithstanding any provision of this chapter, only the permittee shall be liable for violations of this section that relate to a permittee's obligations regarding security guards.

h. In addition to employees of the department, employees of the police department and the department of consumer affairs shall have the authority to enforce the provisions of this section regarding security guards.

i. The enforcement agency shall report any violation of the provisions of this section relating to security guards to the state liquor authority if the permittee holds a license pursuant to the alcoholic beverage control law.

HISTORICAL NOTE

Section added L.L. 23/1990 § 11 eff. July 7, 1990. [See note after § 15-227.]

Subd. e added L.L. 35/2006 § 7, eff. Nov. 21, 2006. [See § 20-360.1 Note 1]

Subd. f added L.L. 35/2006 § 7, eff. Nov. 21, 2006. [See § 20-360.1 Note 1]

Subd. g added L.L. 35/2006 § 7, eff. Nov. 21, 2006. [See § 20-360.1 Note 1]

Subd. h added L.L. 35/2006 § 7, eff. Nov. 21, 2006. [See § 20-360.1 Note 1]

Subd. i added L.L. 35/2006 § 7, eff. Nov. 21, 2006. [See § 20-360.1 Note 1]

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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ARTICLE 2 BASIC REQUIREMENTS

§ 27-526 Location.

No place of assembly shall be located within two hundred fifty feet of any occupancy containing explosive contents.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-801.2 added LL 76/1968 § 1

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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ARTICLE 2 BASIC REQUIREMENTS

§ 27-527 Posted capacity.

Signs shall be posted in all assembly spaces, indicating the number of persons who may legally occupy the space. Signs shall not be required where seating is fixed in place in accordance with an approved seating plan and no provision is made for standee spaces. Such signs, where required, shall read as follows:

OCCUPANCY BY MORE THAN _____ PERSONS IS DANGEROUS AND UNLAWFUL

Public Assembly License No. _____ (where applicable)

Commissioner, Dept. of Buildings, City of New York

When a space is occupied for multiple purposes involving different occupant loads, the sign shall read as follows:

OCCUPANCY BY MORE THAN (number) PERSONS AS (type of occupancy) OR BY (number) PERSONS AS (type of occupancy) OR BY (number) PERSONS AS (type of occupancy) IS DANGEROUS AND UNLAWFUL

Public Assembly License No. _____ (where applicable)

Commissioner, Dept. of Buildings, City of New York

Signs shall be at least twelve inches wide and sixteen inches high. The lettering shall be red on a white background. The letters shall be at least one inch high and the numerals at least one and one-quarter inches high. Signs shall be framed under a transparent protective cover, and permanently mounted in a location that is conspicuously visible to a person entering the space. Signs shall be lighted by artificial illumination at all times during occupancy to maintain at least five foot candles on the surface of the sign.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-801.3 added LL 76/1968 § 1

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.

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NYC Administrative Code 27-528

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ARTICLE 2 BASIC REQUIREMENTS

§ 27-528 Approved seating plans.

In every place of assembly providing seating, copies of approved seating plans and approved alternate seating plans shall be kept on the premises. The plans shall be readily available for inspection, and shall provide the following information:

(a) For assembly spaces:

(1) The location of each seat of each tier of seating, along with the number of occupants of each seating section.

(2) The location and number of standees for each standee area.

(3) The total number of occupants of each tier and of the assembly space.

(4) The location and classification of all exits.

(b) For safe areas:

(1) The furniture and equipment arrangement and location.

(2) The number of occupants to be accommodated.

(c) For stage areas:

(1) The maximum number of occupants, including audience seating on the stage.

(2) Any conditions limiting the use of the stage area.

(3) The location of all exits.

These plans shall not be smaller in size than required for one-eighth inch scale plans.

HISTORICAL NOTE

Section added chap 907/1985 § 1

DERIVATION

Formerly § C26-801.4 added LL 76/1968 § 1

FOOTNOTES

19

[Footnote 19]: * Formerly covered by Article 13 §§ C26-715.0-C26-770.0 from original code, amended LL 130-132/1939, LL 150/1939, LL 156/1939, LL 170/1939, LL 171/1939, LL 22/1941, LL 42/1941, LL 50/1942, LL 196/1951, LL 48/1953, LL 100-108/1953, LL 110/1953, LL 112-119/1953, LL 44/1955, LL 111/1955, LL 46/1960, LL 57/1960 and also covered by Article 18 added LL 29/1943 § 3 amended LL 56/1952 § 3, LL 15/1957 § 3, LL 44/1957 § 2, LL 92/1961 §§ 4, 5, LL 95/1961 §§ 4, 5, chap 100/1963 §§ 499-502.